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**NORTHERN
REBELLION
— AND —
SOUTHERN
SECESSION**

—  —
EWING

IMPORTANT CORRECTIONS

The Publishers are responsible for typographical and mechanical errors. Some of these were made after the proof-copy had left the author's hands—thus rendering it impossible for him to know of these blunders of the printer until the completion of the book. The most inexcusable and painful instance of this occurs on—

PAGE

94, line 9 from the bottom, which should read, "Of the whole number six were Southern men—four Virginians and two Marylanders."

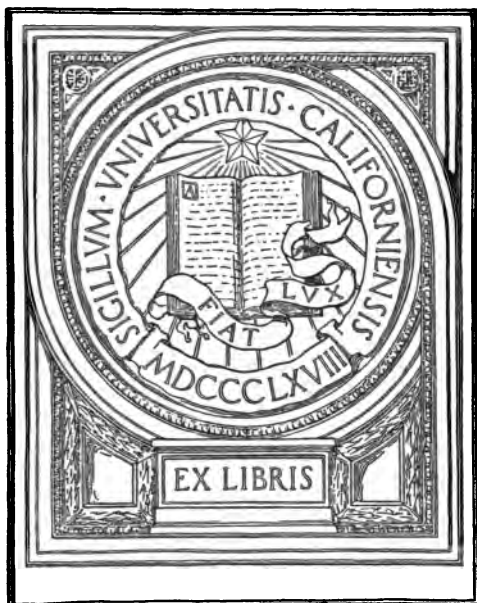
Among the others the reader will readily recognize the following:

- 55, line 12: eliminate comma after "south" and use it after "instances."
- 67: constitution only when it means the National document is capitalized.
- 69: for "addendum of" read "addendum to."
- 76, line 6: for "was" read "were."
- 79, line 11: for "and the" read "and then."
- 83, line 9: for "begins" read "begin."
- 104, line 17: for "and their importation" read "and the importation of slaves."
- 108, last line: for "Rhodes remarked" read "Rhodes' remark."
- 115, line 2: for "geen" read "been."
- 129 line 1: for "King" read "king."
- 134, line 24: for "*particeps*" read "*participes*."
- 165: make same correction.
- 179, line 15: for "S. E." read "S. F."
- 231, line 24: for "was" read "were."
- 247, line 27: for "simply" read "simple."
- 267, line 6: for "place" read "placed."
- 278, line 30: for "what of" read "want of."
- 280, line 14: for "these" read "those."
- 284, line 28: for "wer" read "were."
- 307, Note: for "Hoy" read "Hay."

To Mr. W. A. Morris,
to whose valuable help
the author owes much,
this book is presented as
an humble tribute of
sincere friendship and
high regard. By
The Author.

IN MEMORIAM

Dr. William A. Morris



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✓

Northern Rebellion and Southern Secession.



BY

E. W. R. EWING, LL. B.



RICHMOND, VA.:
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In memoriam

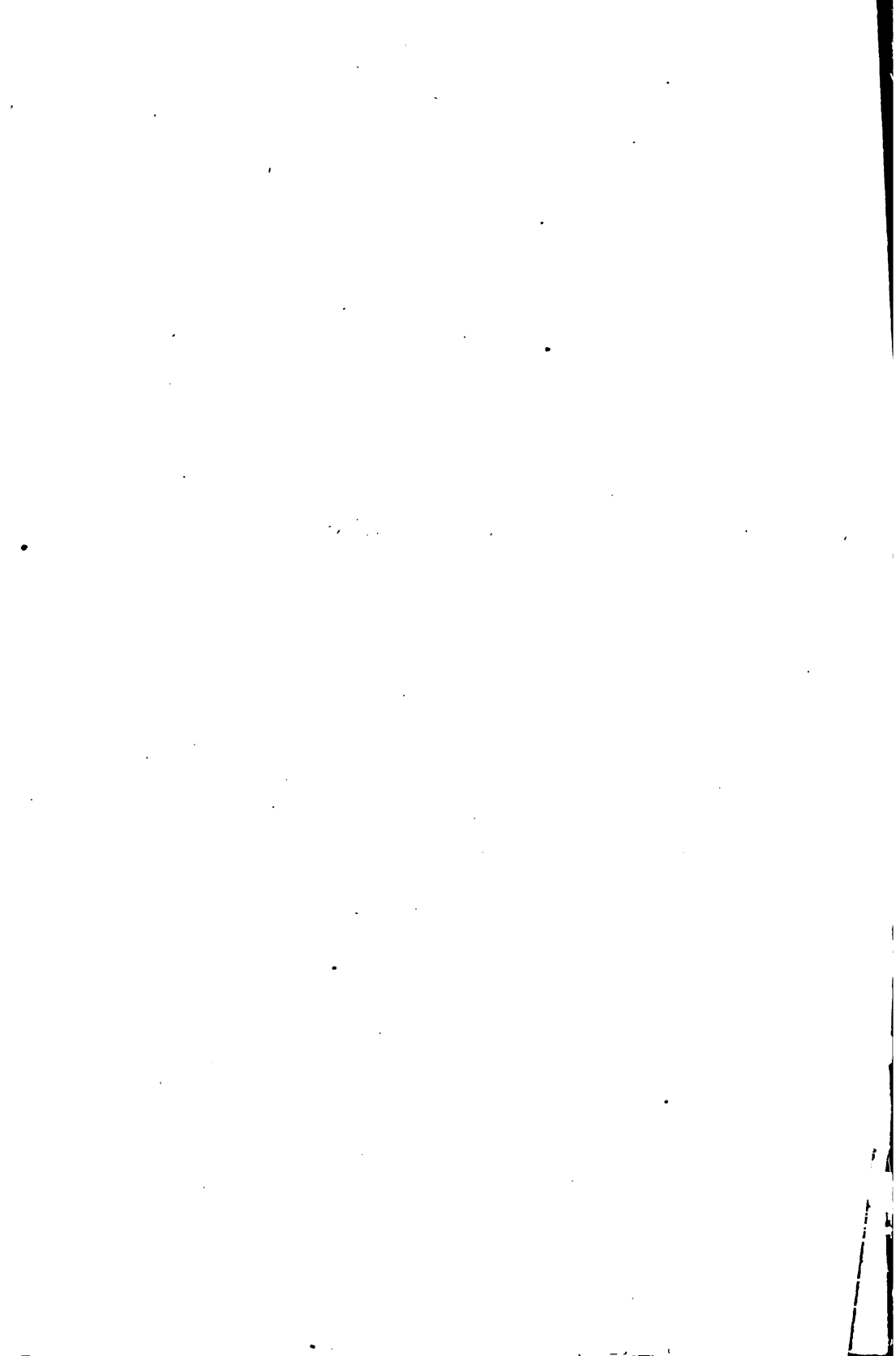
1st Lt. William A. Morris

1875-1941

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To
The Memory of Father,

From Sumter to Ap-
pomattox a brave
Confederate officer ;
until death a citizen of
unblemished life, and
ever devotedly loyal
to the imperishable
principles of the Amer-
ican Government. :::



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INTRODUCTORY.

Doctor Theodore Clarke Smith, until recently instructor in the University of Michigan, in his *Liberty and Free Soil Parties* (Harvard Historical Series), page 4, says: "That no attempt is here made to cover the entire field of anti-slavery action, but mainly its political aspects, must not be understood to imply that the political anti-slavery agitation was more important than purely moral and religious action; for the appeal to the conscience was in fact the cause and condition of the existence of anti-slavery sentiment, and continued steadily in operation during the entire course of the Liberty, Free Soil, and Republican Parties." This is the epitome of that contention which insists that the ante-bellum course of the South was so grossly immoral and irreligious that the Civil War had its origin in an effort to check or overcome various movements which had grown out of the higher moral and religious convictions peculiar to a large number in the North. About this contention as a center cluster all the issues which may be denominated as the causes of the war. Its correctness is of prime importance to the student who would properly grasp the political history of that period. To teach that the North had a reliable, safe, or worthy guide in what is called the "conscience" of that period,—that operation of moral faculty or religious nature which was the "cause and condition of the anti-slavery sentiment,"—is believed to be a fundamental error. Moral and religious convictions are always *caused*; they are results of information; and so it follows that if the information for any reason be incorrect, the convictions which it induces are without justifiable foundation, and any action based upon such convictions is inexcusable and unjustifiable. To this there is but one exception, and that is where a conviction is based upon information the truth or accuracy of which he who holds such conviction had no possible chance to test. Even then there must never have been a time when he could have controlled his condition. Where this is true the right or wrong of the act induced by erroneous convictions is unaltered, the actor is merely relieved of moral condemnation or liability to legal punishment.

Moral and religious fanaticism has been at the bottom of many of the great movements of the world. The Seljuk Turks, to give an instance or two, obtained possession of the Holy Land in 1094. From that time for many years the Christians suffered great cruelties at the hands of the conquerors. But it was the wildest of religious fanaticism that drove Peter the Hermit to arouse all France and Italy to that insane enthusiasm which gave to the world the first Crusaders,—that great army whose vanguard robbery and desolation hailed by the destruction of nearly three thousand souls. However much the Holy Land needed redemption from its bondage, the Hermit's method was born of folly. Again,—seventy thousand Jews and Mohammedans were massacred simply because they rejected the Christian religion; yet “after this most shocking atrocity” the murderers sang hymns of praise to God!! Religious fanaticism brought a stigma to the English name in the slaughter of three thousand five hundred Saracean hostages by Richard Coeur de Lion. It was the maddest of Christian fanaticism which started 20,000 children on a pilgrimage to the Holy Land, only to die on the way of hunger and fatigue. In our own America, even prior to the anti-slavery crusade, New England herself furnishes an instance of the ridiculous contradictions too often produced by a perverted moral or religious judgment. In 1763-'64 the General Assembly of Pennsylvania was composed mostly of Quakers. “While it supported from public moneys bodies of Christian Indians, the Assembly, owing to its Quaker majority, refused to sustain the hardy border men in resisting incursions of the savages,” because many of the frontier settlements were composed largely of Presbyterians; and between the Presbyterian and the Quaker there was bitter enmity. With those Quakers the moral judgment was predominated by the idea that a religious enemy is worthy of any treatment. So the Quaker Assembly allowed the white Presbyterian to be scalped, his cabin burned, and his family murdered. This produced a movement bordering on insurrection and revolution against the then capital of Pennsylvania and its government, in which the rebels burned and sacked villages, and committed manslaughter without discrimination; yet they cited Scripture which they claimed justified them, and “boasted of their act as one of proper retributive and religious justice.”

It is my firm conviction that the true history of cause and effect leading to the sentiment in the North touching slavery in the South, shows the actions based upon it to be of no higher nature than the many instances of misguided moral and religious actions with which history is replete. Hence,—to group cause and effect in such a light as seems to me proper and natural so that this may be seen; to give what I believe to be the true history of the struggle in Kansas from the passage of the Kansas-Nebraska bill in 1854 down to 1861,—a struggle which, in its true relation to the Civil War, like the facts themselves, has never been fully presented or rightly appreciated; to present the chief facts of the slavery history from the earliest times down to the Civil War in an argumentative essay of such a length as will make it serviceable as a suggestive guide more especially to the younger students of my own native South; to present the real connection between Lincoln's election and Southern secession,—were the motives which prompted my writing. If I shall succeed in awaking a desire in any mind which will lead to thorough investigation, I shall have accomplished my purpose.

It readily will be observed that I do not attempt to make distinctions between Abolition, Free Soil, Liberty, or other anti-slavery party names. In my conviction, they are different names for the same thing. In a study of the purely local phases of the anti-slavery movement distinctions may properly be made. But I make no attempt to study parties; I give an outline of what I conceive to be a movement; diverse, it is true, in its components, heterogenous in its individuality, yet each had started from erroneous premises, and all had been guided to unity of purpose through deductions which did not follow.

It has been necessary to leave unsaid much which might properly have been discussed, and this brevity possibly has led to some obscurity of statement. The correctness of my conclusions must rest with the fair and impartial in judgment. As to my premises, the majority of authorities which I have given are readily obtainable, and even those out of print are to be found in the larger libraries, and so any quotation may be readily verified or any branch fully studied. I refer, in the greater number of instances, to writers who are Northern men and who wrote from a Northern standpoint.

Many able writers of the South have done nobly in their treatment of the period, the historical data of which I here review; I fully recognize my indebtedness to them; yet I have sought to prove my fundamental premises by evidence which cannot be suspected of prejudice in favor of the South.

The method of presenting a subject has much to do with the impression left on the mind; and this is especially true of the formative period of youthful mental development. By mere manner of treatment the truth concerning the bearing of slavery on the Civil War too often has been obscured. Many of our text-books by mere method of presentment sometimes leave the student under very erroneous impressions. This fact, in view of the importance of the subject, is a sufficient excuse for an honest effort to cooperate with those who are making faithful efforts to have the sons and daughters of the South understand that the valor of their fathers and the sacrifices of their noble mothers were expended in a cause the most honorable, and under circumstances where inactivity and servile submission would have been most disgraceful to any American similarly situated.

Northern Rebellion and Southern Secession.

I.

THE FORMATION.

Preliminary to this investigation and as briefly as is consistent with the purpose of this monograph, a survey of certain questions of American Constitutional history will be necessary. No matter how much discussed these old national landmarks, they must ever stand the only reliable guide posts to a correct study of later issues of national importance. In a court of history, similar to a court of legal justice, the inquiry is, What did the parties really agree to do, and in what respect has each kept or wherein has he failed to keep his stipulations and obligations? This is essentially true in dealing with a nation's political history.

That bold and spirited document which we call the Declaration of American Independence, signed July 4, 1776, was not intended to be a governmental agreement; and generally it has not been so regarded. Up to that pregnant event, each colony had been governed in its own peculiar way,—each differing more or less from every other. The only thing politically in common, was the allegiance each owed the one great head, the English Government. Even this was not the same in degree. In the Declaration it was asserted that “these United Colonies are and of right ought to be *Free and Independent States*,”—united with but one object—temporarily, and in but one particular, and that was that each *united with all others* should keep up the fight until England should surrender and acknowledge their freedom.

Up to the time of the adoption of Richard Henry Lee's motion, the delegates assembled from and representing the various colonies, had been a congress praying the king to desist from certain things and to grant certain requests; in the Declaration they agreed

unitedly to *compel* him to grant not the requests heretofore made, but more, to each of the thirteen political divisions separate freedom and independence.

Judge Thos. M. Cooley says, "At the opening of their struggle for Independence the American States had no common bond of union except such as exist in a common cause and common danger. They were not yet a nation; they were only a loose confederacy, and no compact or articles of agreement determined the duties of the several members to each other, or to the confederacy as an aggregate of all."

Judson A. Landon, LL.D., for some time president of a leading New York college, in discussing the Declaration of Independence says, "The thought in the mind of the framers no doubt was that every colony was free and independent of the king. There was no need to say independent of each other; they had always been so, and the idea of erecting a common, central government out of all, was not yet suggested."

An eminent scholar has sought to perpetuate a different view of this period of our governmental evolution. He is perhaps the most extreme of his school. In his Constitutional History of the United States, Dr. H. von Holst, a German writer who is extensively read in our country, argues that the Declaration of Independence "did not create thirteen sovereign States," but that the "United States of America became from the fourth day of July, 1776, a sovereign State and a member of the family of nations, recognized by the law of nations." Von Holst has a few followers in the United States who are men of some national reputation. James A. Garfield, for instance, declares: "No one of the colonies was ever independent or sovereign."

This view follows the theory advanced by a small minority of Americans *after* the Declaration; and is the same one which was presented with some vigor on up to and through the convention which drafted the Constitution. Among the delegates themselves were a few who held this doctrine, of whom Alex. Hamilton, Wilson, and Gerry were most uncompromising. They contended that

¹The Const. Hist. and Gov. of the U. S., 59.

²Vol. 1, 6-7.

³Moore, The Am. Cong., 69.

the Declaration of Independence created a nation; that is, that when the colonies became independent of Great Britain they became independent States not "*individually* but *Unitedly*." But certainly there is one thing with reference to the Declaration of Independence, as to which all agree, and that is that whatever government or condition resulted, it came to pass by virtue of the *will* of the majority of the qualified citizenship of America; and hence it follows that whatever construction that majority put upon the Declaration of Independence and whatever changes they made thereafter, and whatever instruments they ordained in evidence of their will, must be taken as conclusive. If we carefully follow the expressions of the will of the people down to the adoption of the first Constitutional amendments, we cannot conclude that they meant to construe the Declaration of Independence as making one great single State out of the entire number of colonies.

With certainty it can be affirmed that the first governmental union of America for any purposes other than the prosecution of the war, began November 15, 1777, when representatives from the entire number of colonies entered into an agreement called "Articles of Confederation." Up to this time delegates, in a voluntary congressional capacity, had been struggling in a weak and indifferent way at Philadelphia to carry on the war against England. Congress, with no real authority other than the mere stress of temporary conditions, had legislated; but any one of the several colonial legislatures, or governments, at any time could, so far as its own subjects were concerned, have annulled the congressional acts. Some of the colonial or State governments did utterly disregard the assumed authority of this congress. Before this time all the States had adopted republican governments, and to these respective governments the Articles of Confederation were referred, and by the State governments amended and returned to the so-called congress. The amended document was signed by the delegates of eight colonies, now some time acting as States, July 9, 1778, and by the last and thirteenth, March, 1781. Where did the sovereignty and independence of the contracting States now lie? The document itself leaves no doubt: Art. II. says, "Each State

⁴House Docs., v. 112, No. 529: Doc'y Hist. Const., v. 3, pp. 165, 244.

retains its sovereignty, freedom and independence,"—the first statement after the Confederation had been given a name.⁵

Jealous of their separate independence, and to further emphasize their separate sovereignty, when the representatives of the late colonies met the peace agents of England in 1780, they required England to acknowledge the *independence* and sovereignty of each State by name—absolute independent sovereignty was given to each several State, and not to the Confederated or United States. Now in connection with this, notice in Art. II. the word "retains"—not "has surrendered," as it must have been if Doctor von Holst and his school are correct,—but "Each State retains"—what? that which it obtained from England: "*its* sovereignty, freedom and independence,"—and not these only, but "and every Power, Jurisdiction and right which is not by this confederation expressly delegated to the United States, in Congress assembled." Plainer, stronger, more cogently clear language has never been written. We need give but one or two extracts to show that those who acted and lived under the Confederation understood that the separate States were distinct sovereignties each from every other. Pelatiah Webster, in 1784, after the Confederation had been in full operation for three years, wrote: "The true end and design of our Confederation I take to be this, viz.: To unite the strength of the separate States under Congress as their *general Head*, and to delegate to them the direction of the operations of our military and naval forces, against the power of Great Britain. And this I take was the general sense and understanding of the States who adopted the articles of our federal union, and the whole tenor of the articles themselves supports this opinion.

"The form of government planned by Congress, and adopted by the states, is the only form we could adopt under our circumstances: And the honor and dignity of Congress, as a private citizen, I am determined to support, as much as the sovereignty, freedom and independence of the states."

President Monroe, who was in the full possession of his vigorous intellect during all the formative period, and who showed his wis-

⁵2 Woolsey, Pol. Sc., 243; also Frothingham, of Mass. (1899), *The Rise of the Rep. of the U. S.*, 561.

⁶Mabel Hill, *Liberty Documents*, 217. To the same effect see Hamilton's Works.

dom by securing to the country the vast Louisiana purchase, and who was admitted to be one of the purest and cleanest of men, speaking of the origin of American institutions, said that two things are evident; "The first is, that in wresting the power, or what is called the sovereignty, from the crown, it passed directly to the people. The second, that it passed directly to the people of each colony, and not to the people of all the colonies in the aggregate—to thirteen distinct communities, and not to one."

Justice Chase, one of the signers of the Declaration of Independence, in the case of *Ware vs. Hylton* (3 Dallas, 224) said, "I consider this a declaration, not that the united colonies, jointly, in a collective capacity, were independent states, &c., but that each of them was a sovereign and independent state, that is, that each of them had a right to govern itself by its own authority and its own laws, without any control from any other power on earth."

After living under the first governmental agreement, The Articles of Confederation, for about nine years, on the 17th day of September, 1787, a body composed of forty delegates, representing the thirteen States, "in order to form a more perfect Union," drew up a document which they called "The Constitution of the United States of America." Its last article provided that the "ratifications of the conventions of nine states" must be had before this document should become the law, or become a new governmental contract to take the place of the then binding "Articles of Confederation." Let us not lose sight of the fact that the government under the Confederation was "inadequate"—the most convincing admission of its want of sovereign independence. It did not claim to have the power, and Congress made no attempt to coerce any individual State to comply with its mandates. Many of the States refused to pay their pro rata of the assessments against them by Congress and performed various individual acts of sovereign independence. Among the acts which indicated a consciousness of independent sovereignty of the individual States, and that indicated the "Union" little more than a confederated league, was the sending of delegates who met at Annapolis September 11, 1786, when New York, Pennsylvania, and Virginia "had, in substance, and nearly in the same terms," directed their representatives "to

¹Niles's Register, xxii, 366.

take into consideration the trade and Commerce of the United States, to consider how far an uniform System in their commercial intercourse and regulations might be necessary to their common interests and permanent harmony, and to *report to the several States*, such an Act relative to this great Object, *as when unanimously ratified by them* [italics in original], would enable the United States in Congress assembled effectually to provide for the same."⁸ Delaware and New Jersey had given much the same instructions. From start to finish the new Constitution purported to do no more than form a "closer union."

If the sovereignty of a nation, the states in which had been dependencies with only the right to control certain local affairs, had been *in esse* as the American government at the time of the adoption of the Constitution, there would have been some synchronous ratification of this fundamental law by the whole people. The fact that the delegates who prepared the Constitution referred their action to the several States, and that the action of the States as *individuals* became final—the body which drew and recommended this document having finally adjourned before any State acted upon their recommendation, shows that each State was still the arbiter of its own destiny.⁹

Hence the question which has been so variously and widely discussed, is, What became of State sovereignty after the Constitution took the place of the old Confederation? Under the Confederation, as we have seen, if English words means anything, if the early writings of the fathers and the political history of our country mean anything in the world, the States most certainly reserved their freedom, sovereignty and independence;¹⁰ in ratifying the Constitution did they forever surrender their sovereign independence? Or, did they agree that sovereignty should lie dormant until self-preservation or the protection of homes, kindred and property should demand its recall? History, not theory, answers our questions. The interpretation of the instrument, as Judge Cooley says, must take place in the light of the facts which preceded and led to it; in the light

⁸Doc. Hist. Const., I., 2.

⁹See James Bryce's *American Com.* for an Englishman's view.

¹⁰Wilson, *Division and Reunion*, 45-6.

of contemporaneous history, and of what *was said by the actors*, and the ends they had in view."¹¹

Just as a lawyer prepares a contract between parties, and passes it to them as competent parties to read, come to a mutual understanding as to its meaning, sign and deliver, thereby making it their contract, binding in no other respect than each mutually understood it; so, the document called the Constitution passes to the several States for their mutual interpretation and ratification in the light of their common understanding. Hence we must read the Constitution in the light of the recorded statements made by these several sovereign parties, when they came to ratify or accept it, before we can correctly determine what the States understood they were doing, or what they meant to do. If all of them understood the same thing touching any one point or question, and so *recorded*, or if any given interpretation made at the time of the formation of the Constitution was accepted by all, this record or history becomes the guide, and not merely this, but a part of the contract. Just as written statements, made at the time and by the parties, of the mutual understanding of the parties thereto, touching an instrument prepared by a lawyer, would be the interpretation which would be accepted in common judicial administration, the lawyer's understanding of it having nothing whatever to do with it; so are we to understand the utterances of the ratifying bodies of the several States in entering into a constitutional contract "in order to form a more perfect Union." In each case there was a meeting of the minds of the contracting parties, touching a lawful subject matter, based upon a sufficient and good consideration, found, in the national compact, in the happiness and better protection of each State; and their competency grew out of the fact that they acted under the Articles of Confederation, which guaranteed to them their independent sovereignty. I am aware that in the debates upon the Constitution it is often called the "organic law," and is sometimes so spoken of yet. Call it what we may, it must have had its beginning in an agreement. Prof. Joel Parker, formerly Chief Justice of the Supreme Court of New Hampshire, while professor of law in Harvard Law School, July, 1861, said that the Constitution "is not itself an agreement,

¹¹Hist. Mich., 346.

but is the result of an agreement."¹² In 1833 Webster said, "The Constitution of the United States, founded in or upon the consent of the people, may be said to rest on compact [contract] or consent; but it is not itself the compact, but its result."¹³ Very well, then, *what was the agreement or compact?* What did each State agree should become of her sovereignty? We find our answer in the recorded words and the acts of the several State bodies at the time of the ratification of the Constitution. In the records of the constructive period we find the mutual understanding of the States on this point—i. e., the disposition of their respective sovereignty. The records of the ratifying conventions, and the unofficial documents, together with the language of the instrument itself, answer our question and put the matter beyond all theory; jurisprudence, constitutional law, common sense, know no other way to determine such a question.

The several delegates who prepared the Constitution turned the document over to Congress which was sitting under the little power given by the Confederation. In the letter submitting to Congress this final agreement of the convention, that body said, "It is obviously impractical in the federal government of these States, to secure all rights of independent sovereignty to each, and yet provide for the interest and safety of all: Individuals entering into society, must give up a share of liberty to preserve the rest."¹⁴ This shows that whatever had been the theories of a minority of the framing body, the final draft of the new governmental compact had been reached upon the basis (1) that each State was an *individual sovereign voluntarily* entering the new organization; (2) that as States they each gave—did not receive, but gave—existence to and surrendered under certain conditions part of their sovereignty to the Federal Government. Following the new Constitution until it finally became the expression of the people, if we find that they agree that this is their status and that they so understand the Constitution to declare, then, since the prime source of all sovereignty has spoken, all theories to the contrary are but idle tales.

¹² Amer. Const. Hist., 176.

¹³ Webster's Works, 468.

¹⁴ House Docs., v. 111 : Doc. Hist. Const., v. 2, p. 1.

Congress had no power to act, and so the matter was referred to the several respective States. This of itself was an admission that the States were independent sovereigns associated merely in a league for their mutual protection and kindred interests, with power to come into the new governmental agreement, or forever remain independently out of it. Had any one or more of the States refused to have ratified the new instrument, after it had been ratified by the required number, no one could have insisted successfully that the new Union had a right to force the refusing State to join the Constitutional Union. After nine States had ratified the Constitution, the Confederacy was null, void, dead,—any State not having ratified the Constitution remained a separate, sovereign, lone republic.

The debates at the ratifying conventions are helpful only, it was the result of the debating, the ratification, which became the contract. Before the ratification, and for years after answered in the negative North and South, the paramount question was, Do we forever lose State sovereignty? Or, ~~Did~~ the ratification of the several States leave their sovereignty merely dormant? to which for a great period the affirmative was the most general answer. I maintain that there were two things which the ratifying ordinances emphasized: (1) State sovereignty shall lie dormant; (2) Conditions under which it may be used or recalled.

Delaware was the first to ratify the Constitution and thus signify her willingness to enter the new Union. No people believed more or practiced more the right of secession for cause than did the inhabitants of this little republic. She had formerly been a member of the semi-republic founded by Penn. In 1691, the two lower counties of Pennsylvania became disgruntled at some act of the general assembly¹² and Delaware seceded,—because she believed that the interests of her people demanded secession. In 1692 England interfered and reconsolidated Delaware with other New England colonies. Again in 1702 Delaware refused to accept the new frame of government which Penn had returned to establish, and she insisted on a second *secession*. While she left no statement similar to other ratifying bodies in other States, especially in the light of her understanding of the rights of a peo-

¹²Ridpath, Hist. U. S., 213. .

ple to protect their local interests, the fact that she finally came under the first of the amendments to the Constitution which were made by the request of those States which thought the instrument in itself did not state as clearly as it should some points, not only makes her a party to the contract which became final on acceptance of the Constitution and first amendments, but leaves no reasonable doubt that she did not mean under all conditions forever to surrender her right to exercise independent sovereignty.

Pennsylvania was the second state to ratify the Constitution and the first whose ratifying convention met. At the time she was the second State in the Confederacy in population; Philadelphia was sacred as the seat of the earliest Congress; the Declaration of Independence had been proclaimed within her gates, and there the alliance with France in 1778 had been ratified. The Articles of Confederation had been put into effect from within her limits; and sitting within her walls the convention had scarcely adjourned which drew the Constitution. Most of the people had kept informed as to the work of the ~~late~~ convention, and it was understood that a government of specifically enumerated powers was being formed. Wilson, the only member of the ratifying convention who had been a member of the framing convention—a man who “had read every publication of importance, on both sides of the question, that had appeared since the Constitution was published,” and whose “legal historical knowledge was extensive and accurate,”¹⁶ assured the delegates that the Constitution recognized that “the supreme power resides in the people,” and that they could delegate a part, as they would in ratifying the Constitution, to the Federal government, while a part remained with the respective States, and that the delegated portion could be resumed at will. But he insisted that, “The great object now to be attended to, instead of disagreeing about who shall possess the supreme power, is, to consider whether the present arrangement is well calculated to promote and secure the tranquility and happiness of our common country.”¹⁷

But a very respectable number of the delegates were not satisfied with Wilson’s assurances, and felt that the instrument itself should

¹⁶Curtis, *Const. U. S.*, p. 521.

¹⁷Elliot, *Debates*, v. 2, 502.

be more specific. Accordingly a meeting of representatives from thirteen counties and the city of Philadelphia was convened September 3, 1788, which, after deliberation, among other things passed a resolution declaring that the Constitution should be amended so as to expressly declare that "all the rights of sovereignty which are not by the said Constitution expressly and plainly vested in the Congress, shall be deemed to remain with, and shall be exercised by, the several States in the Union, according to their respective constitutions."¹⁸

When Massachusetts came to sign the great compact she thought that in future years there might be some question as to her sovereignty, she felt that there might a contingency arise jeopardizing the right to protect her people as against the world or any part thereof, and so in no uncertain terms she put her interpretation of the Constitution upon record, and declared that that instrument must be amended, "First, That it be explicitly declared that all Powers not expressly delegated by the aforesaid Constitution are reserved to the several States to be by them exercised."¹⁹ No State in the Union had a more jealous regard for her independent sovereignty than did Massachusetts; constantly this is shown by the language of the members of her ratifying convention. For instance, Mr. Bodman reaffirmed that "the sovereignty of the States remains with them."²⁰ Tacitly and verbally this was accepted by the majority as the correct interpretation; and the "amendments and alterations" which she demanded, were declared necessary "to remove fears and quiet apprehensions of many of the good people of this Commonwealth and more effectually guard against an undue administration of the Federal Government."²¹

When New York came to ratify or accept the Constitution and thus enter the Union, she, too, was careful to leave no doubt as to what she understood the contract to be. Especially was she careful to leave no doubt as to what she was doing with her sovereignty. Her people through their ratifying convention declared, "That the Powers of Government may be resumed by the People, whensoever

¹⁸Elliot, v. 2, p. 545.

¹⁹Ho. Doc., v. III: Doc. Hist. Const., v. 2, p. 94.

²⁰Elliot, Debates, v. 2, p. 60.

²¹Ho. Docs.: Ib., 93.

it shall become necessary to their Happiness; that every Power, Jurisdiction and right, which is not by the said Constitution clearly delegated to the Congress of the United States, or the departments of the Government thereof, remains to the People of the several States, or to their respective State Governments to whom they may have granted the same; And that those clauses in the said Constitution, which declare that Congress shall not have or exercise certain Powers, do not imply that Congress is entitled to any powers not given by the said Constitution; but such clauses are to be construed either as exceptions to certain specified Powers, or as inserted merely for greater caution."²² They also insisted that there must be no delay in the required amendments.²³ Their plain language equally with that of Massachusetts, uttered respectively at the time each was ratifying and interpreting the contract into which she was entering with the other States, shows most conclusively that the central government which was being created was a confederation whose delegated powers came not from the whole people as one sovereign unit, but "from the people of the several States" each as distinct in its individuality as is Australia from Cuba. Hamilton, who had been a member of the convention which drafted the Constitution, and who in that convention had advocated the annihilation of the State governments,²⁴ said, "The State governments possess inherent advantages, which will ever give them an influence and ascendancy over the national government, and will forever preclude the possibility of federal encroachments. That their liberties, indeed, can be subverted by the federal head, is repugnant to every rule of political calculation."²⁵ The sovereign commonwealth of Rhode Island meant to make assurance doubly sure. Her declarations, and the relation she maintained during the long interval between the dissolution of the Confederacy, upon which she resumed undisputed control of all her sovereign powers, attested the original sovereign independence of each State; and her history helps us to see that when the nine States had ratified the Constitution, those remaining were absolved

²²Ho. Docs., v. 111: Doc. Hist. Const., v. 2, p. 191.

²³Elliot, Debates, v. 2, 414.

²⁴Ho. Docs., v. 111: No. 529, pp. 22, 129.

²⁵Elliot, Debates, v. 2, 239.

from all allegiance to the others, and stood out as on the day England severally acknowledged their independence, sovereign republics over which those States which had formed the Union had no jurisdiction. The conduct of Rhode Island led her legislature to feel the weakness of their single and unsupported position. In 1789, "at the request and in behalf of the General Assembly," September session, John Collins, the governor, transmitted "to the President, the Senate, and the House of Representatives of the eleven United States of America," an offer to continue trade relations. They assured the United States of their "disposition to cultivate mutual harmony and friendly intercourse." They recognized their State "to be a handful," and said, we "stand, as it were alone." Speaking of not joining the Union, they said, "That we have not seen our way clear to do it, consistent with our ideas of the principles upon which we are embarked together, has also given pain to us; we have no doubt but that we might thereby avoid present difficulties, but we have apprehended future mischief. The people of this State, from its first settlement, have been accustomed and strongly attached to a democratic form of Government. We are induced to hope that we shall not be altogether considered as foreigners, having no particular affinity or connection with the United States; but that trade and commerce, upon which the prosperity of this State much depends, will be preserved as free and open between this and the United States, as our different situations, at present, can possibly admit."²⁶

President Washington communicated this to the Senate, Sept. 26, 1789, at the first session of the first Congress. Upon the official records the title of the transaction is, "Rhode Island desires to maintain friendly relations with the United States."²⁷

However, Rhode Island had waited and debated until rebellion grew rampant in her very midst. Providence and New Port seceded from the Commonwealth. These were the first acts of secession after the American Independence. These local difficulties were finally adjusted, and the last of the original thirteen, on May 29, 1790, she entered the American Constitutional Union. But first she said, We enter the Union with the understanding "That the

²⁶Am. State Papers: Misc., v. 1, p. 10.

²⁷Am. State Papers: Misc., v. 1, p. 9.

powers of government may be resumed by the people whenever it shall become necessary for their happiness:—That the rights of the States respectively, to nominate and appoint all State officers, and every other power, jurisdiction and right, which is not by the said Constitution clearly delegated to the Congress of the United States or to the departments of government thereof, remain to the people of the several States, or their respective State Governments to whom they may have granted the same.”²⁸ In other declarations she adopted the phraseology that had been used by New York. She pointed out that the language of the Constitution itself might, some day, be misconstrued, and hence she insisted that additions be made to it and specified that, “1st the United States shall guarantee to each State its sovereignty, freedom and independence, and every power, jurisdiction and right which is not by this Constitution expressly delegated to the United States.”²⁹

New Hampshire felt a deep sense of danger from federal encroachments, and set forth her views in language similar to that used by other New England States, affirming that “all powers not expressly and particularly Delegated by the aforesaid Constitution are reserved to the several States to be by them exercised.”³⁰

When, on June 25th, 1788, Virginia, by her representatives who exercised her sovereign power, in the premises, adopted a form of ratification and a Declaration of the Rights of the People, “and ordered the same to be transmitted and recommended to Congress,” she gave the other States and the world notice of her understanding of the Constitutional contract. Among other things she declared and made known that the powers granted the central government might be resumed by her people “whenever the same shall be perverted to their injury or oppression and every power not granted remains with them and at their will.” That it may fully be seen that by the words “may be resumed by them,” she meant that the people of each State might resume sole and independent sovereignty when they respectively deemed that individual interests demand such a step, I give the following which was one of the amendments which Virginia said must be made before her ratifi-

²⁸House Docs., v. 111, No. 529: Doc. Hist. Const., v. 2, p. 311.

²⁹Ib., 316.

³⁰Ib., 142.

cation would be binding upon her. She said that the words which she suggested, or others of the same import, must be added to the Constitution, to-wit: "That each State in the Union shall, RESPECTIVELY, retain every power, jurisdiction and right which is not by this Constitution delegated to the Congress of the United States, or to the Departments of the Federal Government."²¹ Similar declarations were made by several of the other States. No language could have been found more clearly to declare the independent sovereignty of the respective States; and, though all were agreed upon the point, the Northern States were more emphatic, as will be noticed, that when necessary to their happiness, or that of any one—"respectively"—each for itself should receive back full control of all the powers of the most absolute sovereign. It must not be overlooked that these States ratified the Constitution in full faith that the several suggested amendments would be made without delay, and that this was actually done in the first several amendments which are yet a part of our Constitution. As is often pointed out, especially by Southern writers,²² it was believed and intended by all the contracting parties that these amendments most certainly preserved to each State, to be by it exercised—necessarily by it exercised since such arbitrary exercise was the very backbone of State sovereignty—the right to take *whatever and all steps* the protection and preservation of its peace and happiness demanded.

Nowhere did any State name her sovereignty as one of the granted or surrendered powers; and likewise several other powers and right had not been named as granted, and so all thought that the language of the Ninth Art. of the Amendments preserved to each State all that it had demanded when that amendment declared, "The powers not delegated" are "reserved to the States, or the people" [of the respective States]. Had any one State alone, Rhode Island for instance, said, "The powers of government may be resumed by the people of the respective States whenever it may be necessary to their happiness," and nothing in the Constitution disputed this proposition, there could be no doubt that she reserved the right to resume absolute sovereignty; it remained a dormant

²¹Pulliam, *The Constitutional Laws of Virginia*, 39, 40, 45; Elliot, *Debates*, v. 3.

²²Conf. Mil. Hist., v. 5, 32.

power to be awaked at her touch. She says she does not delegate her sovereignty to the United States, and when in the light of this fact and by her request the other States agree to the Ninth and Tenth Amendments, it becomes clear that they had accepted Rhode Island's interpretation and understanding, which made the doctrine therefore binding upon *all*. This would be true even if the other States had said nothing in their ratifying ordinances; but when from these ordinances themselves it is seen that the other States already held the same view, had the same desire, it is doubly clear that there was a meeting in mutual understanding of the minds of *all* the contracting parties,—thus filling every requisite of a contract of the highest type known to civilization.²³

We then see that of the questions which each of the States thought were settled beyond doubt—and thought so nearly to the Civil War—the foremost was that the present Constitution did *not* take from any State its independent sovereignty, *its right to withdraw from the Union at any time when the interests of the people of the State demanded such action*. It must be remembered, it may be repeated, that independent sovereignty implied—means as its very essence, in fact—that the sovereign may decide for itself what is best and expedient. The conditions for the resumption of full and active authority were not to be settled by a majority of States—each State understood that she alone was her own judge. I do not stop to discuss whether or not this was best. Nor need I stop to say that, while all constitutions must be elastic and subject to progressive interpretation to meet unforeseen conditions,—no *interpretation* can nullify a plain provision; more especially is this true when the object or condition was seen and recognized at the time the provision was made a part of the agreement, and which object or condition continued to exist at any given time. The debates and close votes in many of the States show clearly that not one of the thirteen would have ratified the Constitution, thus by so doing entering the *present Union*, had the people of any State thought they were getting into a compact from which they could not withdraw. During all this formative period of this Union the

²³See a clear statement of these doctrines made by Georgia in her protest against the tariff in 1828, in McDonald's Select Doc., 234; also see Wilson's Division and Reunion, 45-6.

people of the several States placed themselves upon the position—then neither doubted nor disputed by any State—that as States they were originally sovereign; that the Federal Government, or confederated Union, had nothing but what the States had given it or should thereafter give it; and the concessions made to it they were careful to name,—the Ninth and Tenth Amendments binding alike upon all, emphasizing this fact,—thus retaining to each State the legal and moral right to resume its sovereignty whenever the Union Government made a breach of its trust.

From the very earliest cases which came before it involving a construction of the Constitution, the Supreme Court supported the views here re-stated. One of the earliest was the case of *McCulloch vs. the State of Maryland*,⁴ in which was involved the right of Maryland to pass a law imposing a tax on the Bank of the United States. Chief-Justice Marshall delivered the unanimous opinion of the court. This opinion began by saying, "In the case now to be determined, the defendant, a sovereign State, denies the obligation of a law enacted by the legislature of the Union." This was in 1819, and is interesting for many reasons; but as to the point before us, it shows that the States were regarded as *sovereign* by the highest tribunal in the land, and that they so continued except as to so much of that original sovereign independence as they had voluntarily entrusted to the Union,—and that by the best lawyers who were contemporaneous with the Constitution itself. The court points out clearly that originally the States were sole, independent sovereigns, and "that the powers of the [Federal] government are limited"; and the court holds that so long as the Government pursues a legitimate end and "is within the scope of the Constitution and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consistent with the letter and spirit of the Constitution, are constitutional."

⁴4 Wheaton, 400. The opinion in this case is in part given in Hill's *Liberty Documents*, 812.

II.

INSTANCES OF ASSERTED STATE SOVEREIGNTY.

After the Constitution had been ratified and had supplanted the Articles of Confederation the first political parties were a result of divergent views of *construction*. The Democratic party, led by Thomas Jefferson, held that "sovereignty could exist alone in its source"; and that the people of the respective States were this *source*; and that the people could act only through conventional power; that the Federal Government was a municipality, the creature of the people of the several State organizations; that the Constitution had been established as the "guide, and standard, and rule of legislation, executive and judicial authority and functions." The Federal party, led by the elder Adams, admitted that the people of the States were the original source of sovereignty, but contended that they had delegated that sovereignty to the Federal Government, and that under the Constitution Congress now had national sovereignty. Pursuant to the doctrine of the Federalists, the Alien and Sedition laws followed. These provoked the famous Virginia and Kentucky resolutions, in which Virginia re-stated the conditions under which her people entered the Union: "That the powers not delegated by the Constitution to the United States, nor prohibited to it by the States, are reserved by it to the States or the people; and, therefore, the exercise of the powers not enumerated in the grant by the United States is a usurpation of the authority of the States or of the people."

The earliest rebellion against the United States was furnished by Pennsylvania.⁵⁵ In 1791 the government levied what was called an "excise" tax on liquors. The citizens of Pennsylvania were the most numerous and extensive distillers in the country. The tax interfered with the profits in the business, and this gave rise to what we know as the "Whiskey Insurrection." This concerted ac-

⁵⁵Wilson, *Division and Reunion*, 46.

tion of a large number of citizens furnishes us the first acts of nullification in the history of the American Union. It was no less important or authentic because not the act of a legislature; because an act in convention or *en masse* by a large body of people becomes as much a binding and representative act as is possible to have; it emanates from the highest source of governmental power. It was nullification enforced by rebellion against the lawful authority of the United States. From straggling acts of personal violence, such as catching a United States marshal while attempting to execute the offensive law, who then was branded on both cheeks with a red hot iron, tarred, feathered, and ordered to leave the country, the sedition grew in violence and proportions. "A numerous body repeatedly attacked" the house of the United States inspector, and finally destroyed by fire the buildings and contents, "it being the avowed purpose" "to withstand by force the arms of the authorities of the United States; and thereby to extort a repeal of the law of excise, and an alteration in the conduct of the government," so the President of the United States reported to Congress.⁸⁶ "Crimes which reached the very existence of social order were perpetrated without control, and the friends of the government, abused" and "forced to yield to the treasonable fury of a small portion of the United States," so the original records go on to tell us; and thus was violated "the fundamental principles of our Constitution which enjoins that the will of the majority shall prevail." United States troops were met and fought; the rebels robbed the United States mail and gathered seven thousand troops. A major-general was chosen, his troops were drilled, and the munitions of war gathered. Colonel Clark, one of the judges of Fayette county, was made president of what was called an "assembly of citizens," and Albert Gallatin was chosen secretary. The movement was proclaimed an insurrection by the President of the United States and declared to be treason, "being overt acts of levying war against the United States," which were declared to extend to the "subversion equally of the just authority of the government and of the rights of individuals."⁸⁷ The insurrection grew to such proportions that a large part of the State was in rebellion for nearly four years, the

⁸⁶Am. State Papers: Misc., I, 84.

⁸⁷Am. State Papers: Misc., I, 85.

extent of which may be gathered from the fact that commissioners were sent to inquire into the situation, who reported three counties of the rebellious section which had eleven thousand insurrectionists, none of whom were under twenty-one years of age." The movement was not suppressed until President Washington called for seventy-five thousand troops, and sent Governor Lee, of Virginia, against the rebels.

This movement attests the fact that no section of our country believed more strongly than did the North that the Federal Government could do no act which oppressed any considerable body of people in a State. These Pennsylvanians believed that in the people of a State resided the right to determine when the laws of Congress became oppressive; and that when the Federal Government *interpreted* the Constitution that that body of people, whose interests were involved, were the judges as to the correctness of the Federal position, except it was agreed tacitly or otherwise, and understood by the great majority in all the States, that the *State*, in her geographical limits as they were at the formation of the Constitution, or as they should thereafter be made by the State or States concerned, should be the political unit, the constitutional individual.

There is no doubt that this tax was a hardship on those that it affected; yet the method of seeking relief was nullification,—it was even far more pronounced than was the much told nullification threatened in later years by South Carolina. It went much further than did South Carolina. Some of her people held a single convention, in which her nullification ordinance was pronounced; Pennsylvania not only issued pronouncements by various and numerous gatherings no less authentic than the single one in South Carolina, but Pennsylvania backed her theories by armed resistance and protracted acts of violence and bold insurrection which in length of time approximated that of the Civil War.

As Governor Wise long since has shown, by 1801 the Federal party was on its way to the political graveyard; and the principles tacitly enunciated in the settlement of the difficulty produced by the North Carolina trans-Stone mountain subjects were not only no longer seriously called in question, but became the recognized

²²Ib., 101.

rights of Americans. The present State of Tennessee "was ceded by North Carolina in a deed executed by her Senators under her laws in December, 1789, and was accepted by act of Congress April 2, 1790. . . . The cession was forced upon North Carolina by acts of rebels to her jurisdiction, countenanced by Congress."

Settlers in the then State of North Carolina west of the Stone mountain, complaining that they were not afforded due protection by the parent State, declared their independence, and set up against both State and Federal authority a sovereign of their own called the 'State of Franklin.' They organized a State government, with all the municipal departments. They practically nullified in their limits both the laws of North Carolina and the Federal Government. They established a currency of peltry, and the then Governor, General Sevier, complained that he was cheated grievously in the payment of his salary by having put upon him opossum skins, with raccoon tails sewed on them. They contended that his story was absurd, because if they had the *raccoon tails* they would have the *raccoon skins*, too; but he convicted them of using the same tails for numerous different payments and of stealing the tails again for repayment.

"The United States, under Washington's administration, did not deem it a duty or necessity to use force against this grotesque but flagrant rebellion, but compensated North Carolina and pacified the rebels by admitting the Territory or State of Franklin into the Union as the State of Tennessee. But it must not be forgotten that by *rebellion* that State gained admission instead of losing its place in the Union; and *secession* and *nullification* were sanctioned by the then Congress of the United States of America. Such, then, was the jealous regard paid by all to the rights of independent self-government. And this, too, was a precedent sanctioned by both State and Federal authority, which fixed a habitude of thought and feeling and action on the very first settlers of this country, engrafting in them a ruling sense of the right of self-government against any power which either oppressed or failed to protect them. If it was not taught then by precedent sanctioned by Congress, its spirit was caught by them, assuredly by the colonies, especially from Massachusetts and all New England and Virginia."⁸⁹

⁸⁹Henry A. Wise, *Seven Decades of the Union*, 19, 20.

Secession and rebellion by sovereign States was first promulgated by prominent Northern leaders of the Federal party in 1803-'04. There can be no doubt that from 1803 to perhaps 1814 New England furnishes some of the boldest secession and rebellion projects having the least justification, which the history of our country affords. While President of the United States it became necessary, in defending himself against attacks from his own section and party, for John Quincy Adams to give the world some startling facts concerning the disloyal tendencies of New England. Writing from Washington December 20, 1828, he says: "It was . . . in 1808 and 1809 that I mentioned the design of *certain leaders* of the Federal party to effect a dissolution of the Union and the establishment of a Northern confederacy. This design had been formed in the winter of 1803-'04, immediately after, and as a consequence of, the acquisition of Louisiana. Its justifying causes to those who entertained it were: That the annexation of Louisiana to the Union transcended the constitutional power of the government of the United States; that it formed, in fact, a new confederacy, to which the States united by the former compact, were not bound to adhere; that it was oppressive to the interests and destructive to the influence of the Northern section of the confederacy, whose right and duty it was, therefore, to secede from the new body politic and to constitute one of their own. The plan was so far matured that the proposal had been made to an individual to permit himself, at the proper time, to be placed at the head of the military movements which, it was foreseen, would be necessary for carrying it into execution."⁴⁰

July 7, 1804, a distinguished Connecticut lawyer and judge wrote to a friend in Washington city: "I have seen many of our friends, and all that I have seen and most that I have heard from believe that we must separate, and that this is the most favorable moment."⁴¹

Alexander Hamilton, the distinguished New York politician and writer, on the day before his death, July 10, 1804, expressed his

⁴⁰Henry Adams, *New England Federalism*, 52-3.

⁴¹*Ib.*, 342.

disapproval of dismemberment of the Union, showing clearly that he knew of the existence of the plan.⁴²

May 11, 1829, William Plumer, member of the United States Senate⁴³ from New England, in a memorandum in his Life, says, "I recollect, and am certain, that . . . Mr. Hillhouse, after saying to me that New England had no influence in the government, added, in an animated tone, 'The Eastern States must, and will, dissolve the Union, and form a separate government of their own; and the sooner they do this the better.' I think the first man who mentioned the subject to me was Samuel Hunt, a Representative from New Hampshire. He conversed with me often and long upon the subject. But there was no man with whom I conversed so often, so fully and freely as with Roger Griswold. He was, without doubt or hesitation, decidedly in favor of dissolving the Union and establishing a Northern confederacy. Next to Griswold, Uriah Tracey conversed most freely and fully upon the subject. It was he who informed me that Gen. Hamilton had consented to attend a meeting of select Federalists in Boston in the autumn of 1804. . . . It was Tracey who informed me that the death of Hamilton had prevented the meeting in Boston; but he added, 'The plan of separation is not abandoned.'"⁴⁴

This is all the more startling, when we remember that these men were not only men of prominence, but at the time of their conspiracy many of them were members of Congress.

During the War of 1812 the United States Government, through the proper channel and acting under the Constitution, called for troops. This at once gave occasion for a fresh outburst of this rebellious spirit. Not only was it confined to individuals, but it reached as well the highest officials of the New England States. Massachusetts refused to obey; Connecticut refused to send her citizens in response to the Federal call; Rhode Island stood firm on her State-rights and reasserted her sovereignty. Each defied the Federal Government, and refused to rally to her flag; each insisted that she was not bound to obey unless she felt it to the interests of the citizens of her State to do so. During this opposition to the

⁴²Hamilton's Works, v. 6, 56; Hamilton's Hist. of the Republic, v. 6, 323; Adams, New Eng. Fed., 365.

⁴³New Eng. Fed., 146.

⁴⁴Adams, New Eng. Fed., 106; Life of Plumer, 298.

United States in the War of 1812, "A large meeting in Boston declared the act [an embargo on shipping] arbitrary and unconstitutional, and that all who assisted in carrying out the law should be regarded as enemies of the State and as hostile to the liberties of the people." "The Government of Massachusetts refused to submit [to the demands of Congress], and the authorities of the latter State passed a law for raising a provisional army of two thousand for 'special State defense,' of which one of her own citizens was made commander."⁴⁵ And ever ready to appeal to religious convictions for support, the Massachusetts Legislature refused to extend a vote of thanks to Capt. Lawrence for the capture of the *Peacock* because that august body said "it was not becoming a moral and religious people" to approve the course of the United States at that time!

The burdens of the war fell heavily upon them, yet they did not have such a love for the United States, as a nation, as to be willing patiently to wait the rifting of the war cloud; they loudly protested that the interests of the people of their several States were first, paramount,—and second and last, the national interests. They argued that they had entered the Union and had temporarily suspended their sovereign independence to facilitate State success, and that they had a right to determine when individual State happiness was jeopardized. In the Hartford Convention, which met in 1814, Connecticut, Rhode Island, New Hampshire, and Vermont were more or less largely represented. As a result of their deliberations, they came forth in what was called the REPORT, in which, among other things, they made the following declaration:

"In case of deliberate, dangerous, and palpable infractions of the Constitution, AFFECTING THE SOVEREIGNTY OF A STATE AND THE LIBERTIES OF THE PEOPLE, it is not only the right, but the duty of such State to interpose its authority for protection in the manner best calculated to secure that end." And they declared that when cases arise which jeopardize the happiness and peace of the citizens, States "must be their own judges and execute their own decisions."⁴⁶

This was reaffirming the position of all the States when each for

⁴⁵Am. State Papers: Misc., v. II., 186.

⁴⁶Adams, New Eng. Fed., 297.

herself ratified the Constitution; it was the doctrine incorporated in the Constitution, and was the position taken by Kentucky and Virginia in the famous resolutions which the Alien and Sedition laws had excited. New England's position was nullification and more; it was secession, if secession should be necessary to protect "the liberties of the people." As a doctrine of that day, it cannot be criticised; but the justification of the *position* taken by these Northern people under the circumstances, and which led to the reaffirmation of what was originally regarded as the fundamental doctrine, is open to serious criticism and censure.

Too many writers have sought to place the nullification of South Carolina, when at a later day she opposed the tariff law, on a parity with the acts of the Northern opponents of the War of 1812. There is but one similar feature; neither resorted to armed resistance; but as to an excuse for resorting to resistance, under the doctrine of State sovereignty, there is an important distinction. In the War of 1812 the question was a temporary and unavoidable hardship imposed in the interest of the entire nation rather than a few people of a few States; the enemy against which the Federal imposition was made was foreign and common. In the sectional tariff of 1828-'32 it was a matter as between citizens of different States, and where those of the one were seriously oppressed and those of the other were granted a privilege to meet an end which time and unhampered natural development would and should have been left to produce. Of the tariff law which led to South Carolina's attempted nullification Mr. Roosevelt says, "They certainly had grounds for discontent; . . . in the Federal Union it is most unwise to pass laws which shall benefit one part of the community to the hurt of another part, when the latter receives no compensation."⁴

In 1861 the Southern States, believing their several State interests so demanded, took a stand against the same authority as did Massachusetts, Connecticut, and Rhode Island in 1812, all believing that they had entered the Union in order the better to promote the happiness and general welfare of the people of each respective State first and the nation second.

In 1835 Michigan, then an unorganized territory, with a Federal

⁴Thos. H. Benton, 90.

Governor, its own representative Legislature, and with about 87,000 inhabitants, determined to become a State. A State government was organized, and admission to the Union was asked. But there was a boundary dispute between the Territory and a sister State, which must be settled before Congress could grant the people the privileges of Statehood on an equality with the other States. Her citizens did not take this view of the matter, however. Acting entirely upon their own motion, they elected State officers, refused allegiance to the Territorial officers, and, notwithstanding the President of the United States treated the new government as seditious, "yet this State went on exercising the powers of sovereignty within the limits of federal jurisdiction, but not in the Union," says Judge Thomas M. Cooley, one of the most distinguished lawyers of that State.⁴⁴ The Territorial governor whom the President sent to administer the affairs of the yet legal Territory, was scoffed, derided, and threatened until driven from the Territory; and the pretended State courts and "State officers were recognized and supported by the people and in the undisturbed possession of their offices" until the United States authorities were rendered official nonentities, the same writer informs us.⁴⁵ And thus open rebellion continued until "by a species of fraud," perpetrated by a minority convention, the historians of that State tell us, which, though it claimed to be "the action of the people in their primary capacity,"⁴⁶ held July 6, 1836, the difficulties purported to be settled. Congress at once seized this opportunity to avoid the armed conflict which impended, winked at the fraud, and admitted Michigan "upon a false assumption of facts,"⁴⁷ January 26, 1837. In concluding his notice of this exercise of State sovereignty by the people of Michigan when they believed the happiness and welfare of themselves as a political unit demanded and justified this disloyalty to the Federal Government, the learned Northern jurist and distinguished legal authority adds, "The people had maintained its honor in standing upon its rights."⁴⁸

Who were these people who thus stood upon the rights of a State

⁴⁴Hist. Mich., 222.

⁴⁵Ib., 221, 223.

⁴⁶Ib., 223.

⁴⁷Ib., 224.

⁴⁸Ib., 225.

to regard their local interests to the unmistakable disloyalty to the sovereignty of the United States? Most certainly they were not Southern people. Unquestionably they were not of Southern descent, nor were they Southern in their sympathy. The Michigan emigration was New England almost entirely, so far as the United States were concerned, and New England ideas and sympathies predominated.⁸⁸

⁸⁸Ib., 211, 240 *et seq.* See an interesting study of State sovereignty in Wisconsin in Amer. Hist. Asso. Report, 1891, 177.

III.

LEGAL STATUS OF SLAVERY.

EARLY AGITATION.

In this monograph it will be necessary to examine the relation which slavery sustained to the Civil War. This will reveal the causes which led to secession. I have given what I believe to be the relation existing between the several States and the Union of which they are members. It is not necessary to show that the States under the Constitution possessed dormant sovereignty, or that they retained the right to resume absolute independent sovereignty at will, to justify the secession of 1861. The justification of South's part in the Civil War by no means depends upon sustaining the theory of State sovereignty or that of State's rights. While I am satisfied I have given the true history of the formative period, and that my interpretation of that history, following in it as I do many illustrious historians and lawyers, is the correct one, yet it is not necessary to prove this position to justify the secession of the Southern States. To prove it only adds unneeded strength to a position equally impregnable with or without State sovereignty under the Constitution. However much any Constitution may declare itself eternal or forever indissoluble, or however dependent the members it holds together, its end must come when it ceases to answer the purpose of its creation. Some years prior to the war Mr. Lincoln once defined this right which is paramount to all constitutions. While a member of Congress he said, "Any people anywhere, being inclined and having the power, have the *right* to rise up and shake off the existing government [or resist dangerous infractions of the fundamental agreement] and form a new one that suits them better. This is a most valuable, a most sacred right,—a right which we hope and believe is to liberate the world. Nor is this right confined to cases in which the whole people of an existing government may choose to exercise it. Any portion of such people that can may revolutionize and make their *own* of so much of the territory as they then inhabit."

If a Constitution or governmental agreement sets out upon its face the conditions under which the members which it holds together may declare it at an end, such statement only lessens the responsibility for action under this "most sacred right" of which Mr. Lincoln speaks.

I am firmly convinced that the Southern people were not willing revolutionists. They certainly did no less than any other section in the formation of the Union; and most assuredly no section surpassed in valor Southern arms whether upon the plains of Texas or fighting under the most distressing difficulties a treacherous, dangerous, and crafty enemy upon the shores of the Great Lakes.⁴⁴ Southern blood bought for the nation, and especially for the North, more territory than for the South herself. But whether revolutionists or secessionists, unless there was dire calamity impending them, which, in all reasonable probability, so far as they could see, remaining in the Union would not avert, then they were none other than unjustifiable rebels. The Southern people contended that the anti-slavery agitation produced conditions which necessitated secession. They contended that the Constitution recognized the legality of slavery, and that, too, as a subject alone of State regulation. Since a rebel is one who renounces and resists the officers and laws of his government while it is yet supported by a majority of the whole people and yet answers the purpose of its creation, and since the anti-slavery agitators renounced the Constitutional and Congressional recognition of slavery and made forcible resistance to the Federal government and its officers who endeavored to enforce certain regular and Constitutional laws, the Southern people contend that these agitators were the rebels. They contend that this rebellion to laws and constitutional regulations, all yet then sanctioned by a majority of the whole people of the Union, carried its efforts to disaffect the slaves, thus making the institution a dire and widespread and imminent source of danger to master and family; and by a widespread and almost constant encouragement of slaves to run away, caused financial loss to the master,—all these, they claimed, produced a condition where secession offered the most honorable course of averting irretrievable calamity. How much of truth there is in this no American can be indifferent to know. And hence,

⁴⁴Moore, *The Northwest Under Three Flags*.

however repulsive the subject of slavery may be, we cannot eliminate it from our ante-bellum history.

This seems an appropriate place to notice one or two of what the Southern people contend are the too oft-repeated, groundless positions taken with reference to African slavery as a cause of the Civil War. We frequently hear something similar to Johnstone's statement: "Three things are necessary for the complete moral justification of the war: a righteous cause, a reasonable prospect of military success, and a certainty that success will secure a remedy for the wrongs complained of. The righteousness of the Confederate cause depended upon the righteousness of human slavery."⁵⁵ Such perverted statements, the South insists, are not only unkind and unbrotherly, not only misleading in history, but unjust to the brave Union soldier who risked his life or perhaps laid it down upon one of the many gory battlefields, because he believed the national government was tottering to its fall, and because, when he went to war, he was led to believe that slavery would not be touched. No one questions that slavery played its part, a leading part, too, in the pre-bellum causes; but the South contends that the historical truth is that that part was the part of a tool with which designing men sought, with a very small comparative per cent. of individual exceptions, to effect an end in which the condition or happiness of the slave had as little to do as a motive as if the slave had been a nonentity. The brave and generous Lincoln himself dared not risk the issue of war on the abolition of slavery; no, not till the North had committed herself to the sanguinary fratricidal task; and then he asserted, and his party backed him in the assertion, that emancipation was not made because it was either a legal or moral duty. Lincoln and the Union representatives in Congress took the ground that if the South could be conquered with slavery existing, then the war should not touch slavery. Writing in August, 1862, Lincoln said, "My paramount object in this struggle is to save the Union, and is not either to save or destroy slavery. If I could save the Union without freeing any slave, I would do it. What I do about slavery and the colored race I do because I believe it helps to save the Union."⁵⁶ If the "righteousness of human slavery"

⁵⁵Short Hist. of the Civil War, 33.

⁵⁶Hart, Amer. Contemporary Hist., Vol. IV., 399.

had been involved, the very first duty of the North would have demanded the emancipation of the slaves, and every moment's delay would have involved multiple murder. Lincoln saw that while slavery existed it would be impossible to overcome the South. Hence, slave emancipation followed as an incident,—an accidental result, not an object, of the Civil War. It was Lincoln's last hope to strike a fatal blow before foreign intervention should make the Union cause forever hopeless. The North struck off slave shackles not because they loved negro freedom more, but defeat less. I am sure that I shall be pardoned for emphasizing this point; I do so in the interests of history: I would not use one word that would cause a single harsh thought against our present North; it is of our common country; let Mason and Dixon line be a matter of history; we have forgiven, but we should not forget. The numerous old and new unhistoric representations of the motives which moved thousands of intelligent, patriotic Southern people, led by the Lees, Davis, Beauregard, the Johnsons, Early, Longstreet, Stuart, Gordon, Jackson—the list need grow no longer—show a spirit of intrusive injustice.

Let me now inquire for the status of slavery under the Constitution, and find whether it was a subject of the State or the Nation.

Let us reflect a moment. The benign influences of the teachings of Christ have done wonders for the world. The calm, gentle, elevating influence which pervades the sayings of the unostentatious Nazarene is without a parallel in fact or imaginative creation. We of to-day stand in the radiance of its accumulating splendor; infidel, agnostic, or believer, each orders his life and moulds his opinions from a higher vantage ground than that occupied by our forefathers. It has taken nearly two thousand years to bring humanity thus far. We can understand no period in history, we can correctly weigh no action, until we see through the light of former years, and stand upon the ground occupied by those whose actions we have under consideration. This is no less true of the struggle incident to legal slavery in our country, in proportion to time, than of the struggle between the Britons and the Norman invaders nearly one thousand years ago. The closing curtain in the American slave-drama fell nearly half a century since; the tragedy began in the halls of Congress more than a century before our day.

So, no matter what we might think of one who would advocate human slavery in our time, we must not let that opinion prejudice our estimation of the various characters who play upon the one side or the other from 1798 to Lincoln's emancipation proclamation in 1862. The question for history is, At any given time what was actually done; and then, in estimating virtues and determining culpability, it is, As men and conditions were at any given time, which of opposing courses most conserved the peace, happiness, and in the end redound to the greatest good, with the least possible incidental hardship, to the most considerable part highest in intellectual and social development? Our treatment of the Indians and the almost unopposed American position toward the Chinese illustrate my meaning. No one questions but what a Chinaman has more liberty and more opportunities in the United States, yet we generally leave him to suffer and consult the higher interests of the more advanced part of mankind.

Throughout what I shall here have to say concerning the relation which negro slavery sustained to the Civil War, some things, too often neglected or treated lightly, *must not be forgotten*. The first is that the Constitution, whose formation we so briefly noticed, left slavery subject to State control, except as to future importations or trade upon the high seas and interstate fugitive claims; and this relation was repeatedly declared by Congress. (2) In the next place, the Constitution and Congress recognized legal slaves *as property*, differing in no respect, so far as recognition of money value was concerned, from other valuable chattels; this was repeatedly recognized at no inconsiderable intervals up to the Civil War by various Congressional laws and resolutions. It was declared to be a fundamental law by national treaties and enforced by diplomatic negotiations generally managed by Northern men. (3) Slavery agitation began in the North; the injustice and danger of one State or the individuals thereof interfering with the slavery of another were repeatedly declared by Congress.

1. State control of slavery and the relation it sustained to the Federal government.

No one has ever questioned that Art. I., sec. 9, 1, of the Constitution refers to slavery, and that it authorizes Congress to prohibit the bringing of negroes for slavery to any part of this country.

There can be no question that it recognizes slavery as *legal*, and authorizes the Federal government to tax the import trade of negroes so long as it shall continue. Art. IV., sec. 2, 3, also recognizes the *valid legality* of negro slavery, and leaves it to the jurisdiction of the respective States where it might exist; and gives Congress no further or other jurisdiction or right over or concerning the slavery thus declared to exist, except to require any State to return to "the party to whom such service or labor may be due" any person fleeing from such "service or labor."

By no means are we left to gather these conclusions from the language of the Constitution alone. At the very first session of Congress (March, 1790) after the ratification of the Constitution, a memorial was presented by a Quaker society praying Congress to take jurisdiction of slavery. The House referred the petition to Foster, of New Hampshire; Gery, of Massachusetts; Huntington, of Connecticut; Lawrence, of New York; Sinnickson, of New Jersey; Hartley, of Pennsylvania, and Parker, of Virginia. They recommended the following: "Resolved, That Congress has no authority to interfere in the emancipation of slaves or in the treatment of them in any of the States, it remaining with the several States alone to provide rules and regulations therein which humanity and true policy may require."⁸⁷

This resolution was passed without opposition. In a speech in the United States Senate in 1829 Daniel Webster, referring to this same resolution, said, "The fears of the South, whatever fears they might have entertained, were allayed and quieted by this early decision, and so remained till they were excited afresh without cause but for collateral and indirect purposes." Then complaining that the majority at the North had been improperly accused of desiring to interfere with slavery, he further said that nothing would induce him "to overstep the limits of Constitutional duty or to encroach on the rights of others. The domestic slavery of the South," he continued, "I leave where I find it—in the hands of their own governments. It is their affair, not mine. Nor do I complain of the peculiar effect which the magnitude of that population [the slaves] has had in the distribution of power under this federal govern-

⁸⁷Benton, *Thirty Years' View*, I., 137; *Annals of Cong.*, vol. 2, 1 sess. H. R., p. 1474; Webster's Works, vol. 3, 280.

ment, . . . nor would I countenance any movement to alter this arrangement of representation. It is the original bargain, the compact; let it stand. . . . I go for the Constitution as it is, and for the Union as it is."⁸⁸

Concerning the establishment of a mixed international court to adjudicate cases against vessels alleged to be captured slavers, proposed by Lord Castlereigh on behalf of England in a treaty with the United States November 2, 1818, Secretary-of-State John Quincy Adams said, "The condition of the blacks being in this Union regulated by the municipal laws of the separate States, the Government of the United States can neither guarantee their liberty in the States where they could only be received as slaves nor control them in the States where they would be recognized as free."⁸⁹

In 1838 we find the Senate solemnly passing the following declaration as to the status of slavery under the Constitution: "Resolved, That any attempt of Congress to abolish slavery in any territory of the United States in which it exists would create serious alarm and just apprehension in the States sustaining that domestic institution, and would be a violation of good faith toward the inhabitants of any such territory who have been permitted to settle with and hold slaves therein; and because whenever such territory shall be admitted into the Union as a State, the people thereof shall be entitled to decide that question exclusively for themselves." On vote there were only ten of the entire number of Senators who opposed this declaration, and Senator Benton, who was not in sympathy with the institution of slavery, says, "The few who voted against" the resolution "did so for reasons wholly unconnected with" its merits.⁹⁰ They believed the Constitution was plain enough without any further declarations by Congress. Webster, for instance, voted in the negative, but he took occasion again to declare that any intermeddling with slavery "by a State or individual was contrary to the spirit of the confederacy, and was thereby illegal and unjust."⁹¹

Senator Seward, afterward Mr. Lincoln's Secretary of State, upon the floor of the Senate before Lincoln's inauguration, said:

⁸⁸Webster's Works, III., 281; Benton, Thirty Years' View, I., 138.

⁸⁹Am. St. Papers: F. R., IV., 400.

⁹⁰Benton, Thirty Years' View, II., 137.

⁹¹Ib.

"Experience in public affairs has confirmed my opinion that domestic slavery existing in any State is wisely left by the Constitution of the United States, exclusively to the care and management and disposition of the States, and if it were in my power I would not alter the Constitution in this respect."⁸² Many such proofs might be given, but I shall content myself with but one more under this head.

Thos. M. Cooley, LL. D., of Michigan, formerly one of the justices of the supreme court of Michigan and professor of law in the University of Michigan, enjoys an enviable reputation as a jurist and legal historian. He is thoroughly anti-slavery in his sentiments. In his history of Michigan he says, "It had been from the first agreed by all schools of constitutional construction that the federal government had no power over the institution of slavery in the States, except in the matter of the reclamation of fugitive slaves or perhaps as slaves became the subject of interstate commerce. The States, by the Constitution, had been left to regulate their own domestic institutions in their own way; that of master and servant as much as that of marriage."⁸³

2. The Constitution recognized negro slaves as property, differing in no essential from other valuable property.

Under the old Confederation negroes were legal property, and the numerous negroes carried from the North by the British in the Revolutionary War—as many as three thousand having been carried from New York at one time—were demanded by our government as the *property* of American citizens. In the Treaty of 1783 it was stipulated that his "Britanic Majesty should, with all convenient speed and without causing any destruction or carrying away any negroes or other property of American inhabitants, withdraw all his armies," etc.⁸⁴ Under this treaty negroes belonging to citizens of New Jersey were claimed as their property.⁸⁵

In the War of 1812 the British removed a considerable number of slaves to Nova Scotia against the will of the owners. Others

⁸²Cudmore, Civil Gov. U. S., 119.

⁸³Hist. Mich., 355.

⁸⁴Am. State Papers: For'n Rel'ns, Vol. I., p. 190; John Quincy Adams' W'ks (Boston, 1850), Vol. III., 336; IX., 632.

⁸⁵Am. State Papers: For'n Rel'ns, Vol. I., p. 191.

were sold in the West Indies."⁶⁶ These slaves were induced or forced to leave their masters because it was believed the loss thus sustained would reduce the power of resistance on the part of the Americans. In the treaty of peace, known to history as the Treaty of Ghent, in 1814, negotiated on behalf of America by Messrs. Adams, Russell, and Gallatin, from Northern free States, and Clay and Bayard, from slave States,—these confiscated slaves were claimed as property,"⁶⁷ and the British Government was required to pay for them. Payment was refused; this led to a series of diplomatic correspondence"⁶⁸ until at length, in the convention with Great Britain on the question, May 20, 1820, in which "the United States claimed for their citizens, and as their private property" the removed slaves, negotiated by Albert Gallatin, Richard Rush, Frederick John Robinson, and Henry Goolburn, plenipotentiaries, the question was agreed to be arbitrated before Emperor Alexander, Emperor of all the Russias. This was done according to agreement."⁶⁹ The arbitration agreements were carefully prepared,—Henry Middleton representing the United States and Sir Charles Bagot representing Great Britain. Alexander held that the slaves which had been removed against their masters' wills were lawful and valuable property, and adjudged that Great Britain was liable in damages. At London in 1826, Gallatin representing the United States, and Huskisson and Addington Great Britain, it was agreed that this finding of the emperor was correct, and Great Britain promised to pay to the United States for the benefit of those who had owned these slaves one million two hundred and four thousand nine hundred and sixty dollars. The next year, 1827, Gallatin, a Northern man, under the administration of John Quincy Adams, of Massachusetts, and with the approval of the administration, actually secured the payment of this sum."

In 1830 the Comet and in 1834 the Encomium were carrying slaves from one port in the United States to another port in the same. Storms drove and stranded both near Nassau, New Providence on the Bahama Islands. The slaves were removed by the

⁶⁶Am. St. Papers: F. R., v. 3, 750.

⁶⁷Am. State Papers: For'n Rel'ns, Vol. IV., p. 106.

⁶⁸Ib., 363.

⁶⁹Am. State Papers: For'n Rel'ns, Vol. IV., 402, 645.

⁷⁰Benton, Thirty Years' View, I., 90-91.

wreckers to the island; and detained by the local authorities without the consent of the masters or those in charge of the vessels. In 1835 the *Enterprise*, sailing from the District of Columbia destined for some Southern port of the United States "on a lawful voyage and with regular papers," was forced by storm to put in at Port Hamilton, Bermuda Island. There her slaves were forcibly seized and detained by the local authorities. In each case the owners protested in vain, after which they applied to our government for redress. Each of these islands at each respective time was under the jurisdiction of England. Our authorities demanded the value of the slaves of the British government. The claim was based upon the property alleged to exist in the negroes. "After years of negotiations with Great Britain redress was obtained in the two first cases—the full value of the slaves being paid to the United States to be paid to their owners."¹¹ England refused payment in the case of the negroes taken from the *Enterprise*, because she said slavery was illegal in her territory—her emancipation law having taken effect in the island of Bermuda before the time the slaves from the *Enterprise* were carried there. Hence, having touched free soil, she claimed they became free, and insisted that they no longer remained property. The matter was brought before the Senate, and in a series of resolutions the Senate declared the slaves to be property, and that the property rights "as established by the laws of the State to which they belonged" were not affected by their being upon Bermuda Island free soil. Then the declaration continued thus: "Resolved, That the brig *Enterprise* which was forced unavoidably by stress of weather into Port Hamilton, Bermuda Island, while on a lawful voyage on the high seas from one part of the Union to another, comes within the principles embraced in the foregoing resolutions, and that the seizure and detention of the negroes on board by the local authority of the island was an act in violation of the laws of nations and highly unjust to our own citizens to whom they belonged."¹² Every member of the Senate voted for this plain declaration of a violation of the *property* rights pertaining to the slaves."¹³

¹¹Benton, *Thirty Years' View*, II., p. 182.

¹²*Ib.*, 182.

¹³*Ib.*, 183.

As late as March 9, 1853, pursuant to act of Congress approved March 3, 1853, the grandson of Major William Hazzard Wiggs, "a gallant officer of the Revolutionary War," so the record tells us, was paid by the Treasurer of the United States \$41,691.21 for the loss of *negro slave property* sustained by the grandfather at the hands of the British during the Revolution. The beneficiary claimed that there was due a larger sum which, he insisted, the correction of a clerical error would entitle him to receive. In 1860 the question as to this error came both before Congress and the Court of Claims. The question turned upon determining the measure which had been used by Congress to determine the value of the several slaves, and it was decided that the loss had been estimated upon the per capita valuation of a slave as previously determined by the legislature of South Carolina." April, 1862, Congress, then composed of Northern Republicans, liberated the slaves in the District of Columbia by paying their owners one million dollars!" Lincoln, when a member of Congress, had introduced a similar bill." So, from the Revolution down to the Civil War, the valid legal property rights vested in negro slaves as those rights were declared by the local laws of the several States were not only never questioned, but had the most solemn sanction and acquiescence by all political parties and classes—North as well as South.

3. The agitation of slavery began in the North. It began at the very time slavery was on the verge of dying from the entire country. There was nothing to call for these early agitations, and by being synchronous with the beginnings of the underground railroad they defeated, rather than aided, emancipation. The early work of the underground movement will hereafter be fully shown.

The earliest agitations came from the Northern Quakers, and not until the Civil War did this people forego this work. This same people, many of them the same individuals, had refused to champion the cause of American freedom in the Revolution,—a very few being the only important exceptions. John Adams, second President of the United States, says the bulk of them opposed the cause of American freedom, and that when their representatives in the

⁷⁴Repts. Committees, 36 Cong., 1 sess., v., No. 471, pp. 1-15.

⁷⁵Cong. Globe, Apr., '62.

⁷⁶Bell, Letters and Addresses of Lincoln, 360.

colonial Congress "began to see that independence was approaching they started back," and listened to the advocates of freedom with "horror, terror, and detestation, strongly marked on their countenances."⁷⁷ Frequently they were spies against their own fellow-citizens in favor of the English. Concerning some of this sect, Washington said, "I could by no means bring the Quakers to any terms. They chose rather to be whipped to death than to bear arms or lend us any assistance whatever upon the fort or [do] anything for self-defence."⁷⁸

The venerable McKean, of Philadelphia, estimated in 1814 that "Friends or Quakers, Monenists, and the Protestant Episcopalians,—whose clergy received salaries" from the crown and other English sources, composed the bulk of American opposition to separation from England.⁷⁹

Discussing their petitions for national interference with slavery in the States, a member of Congress said of them that "in time of war they would not defend their country from the enemy, and in time of peace they were interfering in the affairs of others."⁸⁰

When Congress informed these petitioners that the national government had no power over slavery in the States, we can readily see how importunity of this class of men irritated and begot bitterness. So from this early beginning pours forth a stream of mad poison which finally drove thousands of Northern people to openly sanction the wholesale murder of Southern slave-holders. No wonder Washington called the prayer of these early petitioners to Congress "*very mal apropos!*"⁸¹

December 3, 1819, a convention held by citizens of Hartford and vicinity, in Massachusetts, petitioned Congress to prohibit slavery in Missouri. The petition, long and galling, admitted, "The Union is indeed a compact of independent and sovereign States; . . . this was, in fact, a bargain between the States as independent contracting parties,"⁸² referring to the Constitution and its recognition of slavery as a State institution. It admitted, "We well know that this

⁷⁷Works (Boston, 1850), v. 2, 407.

⁷⁸Spark's Writings of Washington, v. II., 169.

⁷⁹John Adams' Works, v. X., 87.

⁸⁰Annals of Congress, v. I., 1 sess., March 17, 1790, 1453 *et seq.* for a full discussion of these petitions.

⁸¹Spark's Washington, v. X., p. 85.

⁸²Am. State Papers: Misc., II., 572-4.

dreadful curse was entailed upon them [the Southern people], and that many of our own citizens have contributed to its continuance." Yet it insisted upon "keeping the slave population of our country within the narrowest limits. If coercion be necessary, it can be most easily, promptly and successfully applied. . . . If plans of gradual emancipation are to be adopted, they will be most efficaciously carried into effect."⁸³ *Coercion* for the original Southern slave-holding States, emancipation for the slaves! and both suggested by citizens of Massachusetts! There was no indication that coercion—armed force—would be needed, yet it was thus threatened—and by those who admitted equal guilt. Thus the agitators began to pull down upon them Southern wrath. Nothing will make a man more combative than to talk of using force to compel him to stop doing what is in obedience to or by permission of valid law. Even before this petition the same Quakers who first petitioned Congress had, in Pennsylvania, entered the systematic theft of negro slave property from neighboring States⁸⁴—property protected by the Constitution and which Congress had plainly told them could not be touched by the national government or by citizens living in States other than the States where the institution of which they complained existed.⁸⁵ So upon every hand these agitators showed not only arrogance, conceit, and a domineering attitude, but also exhibited a want of regard for law—unless that law happened to conform to *their* demands.

That there was no cause for believing other than that slavery was rapidly passing from the American continent, especially during the years of these early agitations, I have elsewhere abundantly shown by the evidence of George Bancroft⁸⁶ and others, thus leaving no cause for these complaints.

On December 22 of the same year another gathering of citizens at Newport, Rhode Island, petitioned Congress not to admit Missouri with slave concessions. The petitioners began by admitting, "That slavery, as it now exists in the United States, in the opinion of your memorialists, can never be made a matter of reproach to the existing Government or the present generation. It was an evil

⁸³Am. State Papers: Misc., v. II., p. 574.

⁸⁴Am. State Papers: Misc., v. II., p. 752.

⁸⁵Am. State Papers: Misc., v. I., p. 12.

⁸⁶Hist. of the U. S., v. II., 275.

introduced into the colonies by the parent State, and acquiesced in to a great degree by the colonies themselves in an age when the traffic in slaves was pursued by all nations without a suspicion of its enormity. The Northern colonies participated in it equally with the Southern," they continue, "and the navigation of the New England ports and particularly of this town was employed continually on the African coast in the transportation of slaves to the different American markets and by means of American capital. There can be no reproach, therefore, cast upon our Southern brethren for the introduction of this evil which, as your memorialists conceive, will not equally attach itself to ourselves and the English nation. We were all equally disposed to embark in the traffic, . . . and the guilt, if any there be, must be shared in an equal degree by the parties concerned."⁸⁷ They admitted "that the number of slaves introduced into the Union from foreign countries and in violation of your laws must ever be inconsiderable," but they insist "that it would be unwise in Congress to permit the extension of slavery in the new States."⁸⁸ They assign as a reason for their unwisdom that "its effect on the state of agriculture, the manufacturing, and mechanical arts, and generally on the industrious and profitable habits of a people and their domestic peace"⁸⁹ is bad and generally injurious. And the only other reason assigned is that slaves will be increased in numbers. No intimation is made that this slavery is affecting the petitioners or their State. They do not anticipate any appreciable harm from the import trade, and to secure the "domestic peace" of the Southern States and prevent what they allege will be an unlimited geographical spread of the increasing numbers, they interpose. The history of every Territory and State to the north of Missouri; the then existing non-slavery of northern Virginia and the experience of much of Kentucky refuted the intimation of unlimited territorial growth; and as for Southern peace—it was too plainly but the clothing of the wolf—a mask beneath which subtle politicians paraded into Congress.

But at length the Missouri question was settled; the so-called compromise clause had given to the North by far the greater bulk

⁸⁷Am. State Papers: Misc., v. II., p. 568.

⁸⁸Ib., 569.

⁸⁹Ib., 569.

of the Union, and for more than thirty years thereafter the South rested quietly under the inequality. For many years there was no indication that the Southern people would gather about them the fair-minded men of the North and restore to its normal and constitutional basis the yet unorganized territory. More than ever the territories to be settled after Missouri were to draw their citizens from the older and previously existing States. They were to be filled with men already used to the ballot,—men whose rights as citizens of the United States had accrued to and vested in them before their emigration to a new home; and not until after they had moved, since it was a matter of formality of organizing a political unit which would leave them yet citizens in no essential different from their original citizenship, even if the Constitution had left a different course within Congressional discretion, no valid reason appeared for refusing to such citizens removed to new homes the same privileges which Ohio, Michigan, or Illinois, and all the States organized after the original thirteen, had been accorded. But during all these years of apparent contentment with the disposition of the territorial question as settled in the Missouri legislation the Northern abolitionists exhibited an increasing disregard for national laws, and in numerous instances showed contempt of the Constitution itself; and that officiousness which is no less disgusting when found in numbers than in an individual became intolerable, not to the South alone, but as well to the majority in the North.

Concerning those petitions poured out upon Congress after the Missouri question on down through 1837-'38 and well up to the time of the Kansas-Nebraska bill, it is well to let Thos. H. Benton, opposed to slavery himself, speak. He says, "There was but little in the state of the country at that time to excite an anti-slavery feeling, or to excuse these disturbing applications to Congress. There was no slave territory at that time but that of Florida. . . . The petitioners did not live in any territory, or State, or district subject to slavery. They felt none of the evils of which they complained; were answerable for none of the supposed sin which they denounced; were living under a general government which acknowledged property in slaves, and had no right to disturb the rights of the owner; and they committed a cruelty upon the slave

by the additional rigors which their pernicious interference brought upon him.

"The subject of the petitions was disagreeable in itself; the language in which they were couched was offensive. . . . Many petitions were in the same words, bearing internal evidence of concert among their signers; many were signed by women whose proper sphere was far from the field of legislation; all united in a common purpose which bespoke community of origin and the superintendence of a general direction."⁹⁰

⁹⁰Thirty Years' View, v. II., p. 134.

IV.

THE MISSOURI COMPROMISE.

OBJECTIONS TO IT ANALYZED.

It was in 1819, when the North began to conclude that the position of slavery under the Constitution could be made to mean very much in national politics. Since it was the organization of the territory now occupied by Missouri which gave opportunity for this political attack upon the existence of the slavery of the Southern States, it will be well to begin with that occasion and see exactly what the issue was and from what quarter it came.

I am satisfied that the advent of the slavery question as a national political factor is too often regarded or treated as the commencement of the Northern agitation on the one hand, and as the date which marked the elimination from the South of the tendency and effort to find a safe means for each State to emancipate her own slaves. Either conclusion must be carefully avoided. I have elsewhere shown that not until ten or fifteen years after the fierce wrangle over Missouri's slavery rights and privileges did the Southern States abandon an attitude toward their slaves which unquestionably would, unimpeded by external forces, have resulted in emancipation. I have called attention to the persistent annoyance of Congress by anti-slavery petitions,—petitions unwarranted by the existing conditions, and which came at a time when they had no possible excuse or justification,—to show that long prior to the fight over Missouri the North had commenced and steadily persisted in harassing the country by insisting that the demands—rather their demands for them—of an admittedly inferior and shiftless people were paramount to the rights of the incomparably higher class among whom the inferiors lived. Then in other places I have shown that long before the agitation of slavery as a political factor, such unlawful practices as the underground railroad and widespread visitations of unscrupulous emissaries had begun their relentless goading which really had more to do with the ultimate

position of the South than had the purely political phase of the anti-slavery outburst.

However, the significance of that political legislation which we comprehensively include under the common expression "Missouri Compromise," lies in its connection with the after repeal in 1854 of so much of that legislation of the Compromise as sought to restrict the territorial spread of slavery, which the North claimed forever prohibited any State or territory thereafter erected north of 36° 30' from settling its own domestic and local slavery questions.

In 1819 there were twenty-two States; ten of these had made laws for the gradual abolition of slavery, the undoubted result of which was to send the slaves, in a few instances south, for sale, in most cases out of the United States. Even at that time in some Northern States the laws for the gradual abolition of slavery had not yet wholly extinguished that institution. In New York, for example, slavery did not become extinct before 1827, and only children born of slaves after 1804 were emancipated in New Jersey in 1820; living slaves in that State at the time of the passage of the emancipation act were never freed. Rhode Island, too, only emancipated those to be born after a specified date,—facts which always strike the South peculiarly since the condition of the slave was always made second to the financial interests of the Northern masters.

As society and industrial development were in the ante-bellum days, in slave communities there was but one possibly *profitable* branch of industry—agriculture. So that in 1819 the agricultural States were the slave-holding States, in which emancipation had as yet had no legislative beginning, and these were equally balanced by the number of those where slavery was dying or for economic reasons had entirely disappeared. These economic and industrial distinctions were the basis for the political division, and hence the political power in the Senate was equally divided. Up to 1819 the phenomenal territorial growth of this country had hardly been a dream. But when the territory of Missouri came to ask for admission it was at once seen that, it being a soil and climate mostly inviting to agriculture, the political equilibrium of Congress was threatened.

In the usual way a bill was introduced in Congress for the recog-

nition of Missouri as a member of the Union. Tallmadge, of New York, offered an amendment which provided for prohibiting the further introduction of slaves and also emancipating at the age of twenty-five all slave children thereafter born in the new State. It must be remembered that the territory had 10,000 negro slaves.²¹ I have elsewhere discussed their origin and the laws which had fostered their increase. This proposed amendment immediately raised a question both of fairness and Constitutionality. Unlike the French slaveholders of the Northwest Territory at the time of the passage of the Ordinance of 1787, many slaveholders in the Missouri Territory had gone from the States, and were both used to local self-government and competent for its exercise. All of the slaveholders who came to the United States with the territory from which Missouri was taken, had their slaves secured to them by treaty to which the United States was an informed and willing party.²² Tallmadge and his coadjutors made a great parade of the evil of slavery, both real and imaginary, all of which, while it had no real connection with the issue, only served to arouse sympathy by a blind recognition of inferior interests and neglected the fact that these were in direct conflict with superior. No considerable number denied the evil of slavery; in fact, as Lucien Carr says, on that point the South went further than the North. To get rid of it and avoid a greater evil was the point. No one then suspected the continuance of the importation of slaves from foreign countries. As Samuel A. Foot, a representative from Connecticut, said, "The Missouri question did not involve the question of freedom or slavery, but merely *whether slaves now in the country might be permitted to reside in the proposed new State; and whether Congress or Missouri possessed the power to decide.*" The Territory, or District, of Maine was about ready to ask for admission as a State; her Constitution made no discrimination except as to paupers and Indians not taxed. It was well understood that her geographical position had decreed her a non-slave-holding State. For years a District in Massachusetts, it was well understood that with reference to national questions the parent State had molded her politics. Maine determined the qualifications for her citizenship, and decided the

²¹Rhodes, *Hist. of the U. S.*, v. I., p. 30.

²²U. S. Charters and Constitutions, 687-689.

legal status of her people. People of Maine or those of other Northern States would not have admitted the power of Congress to make her recognize slavery as a condition precedent to her admission. Indeed, they would correctly have argued, no such power existed with Congress simply because the Constitution had left the slavery question outside of Congressional jurisdiction. Jurisdiction to prohibit slavery in a State irrespective of its will must have implied equal power to create slavery under the same conditions. Then, in all the Territories erected out of the Northwest Territory, and no less in the attitude toward Maine, Congress had set a precedent by allowing each either to recognize or prohibit slavery as a majority of the people in each locality demanded (see *infra*), and finally to make such a constitutional disposition of it as each State, *unimpeded* by Congressional *interference*, had deemed it wise. Like privileges "in all respects whatsoever" was Missouri's demand under the Constitution.

It is singular that not a single argument which Rhodes^{**} says was advanced for the support of the conditioning amendment was tenable. (1) The restriction imposed by the Ordinance of 1787 as construed under the Constitution did not amount to a condition precedent to the admission of Ohio, Indiana, and Illinois; (2) the amendment did violate the treaty with France;^{***} (3) the question of moral evil was wholly irrelevant, as much so as the right or wrong of selling liquor would be in a trial under an indictment against one for selling without a license.

On the question put before Congress as to whether or not the amendment should be sustained and the State restricted *against her will*, all the Southern votes were in the negative, and by the aid of one Senator from Massachusetts, one from Pennsylvania, two from Illinois, and the two from Delaware it was defeated in the Senate,—the vote standing sixteen for restriction and twenty-two against it.^{***} At the next session of Congress, 1820, the compromise feature, as it is called, appeared. Senator Thomas, of Illinois, introduced a kind of addendum to the Missouri bill providing for the prohibition of slavery outside of Missouri and in the Louisiana

^{**}Hist. of the U. S., v. I., p. 31.

^{***}Lucien Carr, Hist. of Mo., p. 144; Benton's Abridgement, v. XIII., p. 33.

^{***}Rhodes' Hist. of the U. S., v. I., p. 32.

purchase and north of 36° 30'. As is well known, this measure was adopted.

But the adoption of this provision did not admit Missouri to statehood. Within the territory itself the agitation which had filled the nation had not been without its fruits. Already the necessity for the South's taking defensive steps had begun to appear. In her Constitution Missouri forbade her legislature to interfere with slavery. Notwithstanding the compromise feature, as it is commonly termed, had already passed, yet much opposition was found to the admission of Missouri under her constitution with its negro provisions. For several reasons it is important to know what produced her constitutional attitude both towards slavery and free negroes. Thos. H. Benton, strongly anti-slavery, who was Missouri's Senator for thirty years, says, "This prohibition . . . was the effect of the Missouri controversy and of foreign interference, and was adopted for the sake of peace, for the sake of internal tranquility." He tells us that it was at his instance that the prohibitions in the constitution were placed there, and that he was "equally opposed to agitation and slavery extension."⁹⁶ There was another clause, the first of its kind in a Southern constitution, though Massachusetts had already set a legislative precedent, to which Northern Congressmen professed to find serious objections, and that was the provision "authorizing the legislature to prohibit the emigration of free people of color into the State." Finally the objection was surmounted—an objection which "was only a mask to the real cause of the opposition and since shown to be so by the facility with which many States, then voting in a body against the admission of Missouri on that account," for years thereafter excluded "the whole class of free colored emigrant population from their borders, and without question, by statute, or by constitutional amendment."⁹⁷ Pausing a moment to look back from the initial of Southern prohibition against free negroes, we find that already precedents had been set by the State of Ohio, Northern throughout her history, by Indiana, and Illinois—a prohibition necessary in Missouri to secure internal tranquility and to avoid a dangerous element of foreign interference.

⁹⁶Thirty Years' View, v. I., p. 9.

⁹⁷Ib., 10.

In 1854 we see the entire country gathered in mortal combat either actually or in sympathy with the one side or the other on the plains of Kansas. How came them there, involves a study of the repeal of the prohibitive addendum in the Missouri bill. In that year Stephen A. Douglas, of Illinois, introduced a bill for the organization of a Territory from western lands then yet inhabited by the Indians. After some amendment and delay the bill provided for the organization of the Territories of Kansas and Nebraska, and is, therefore, known as the Kansas-Nebraska bill. This bill repealed the clause—the addendum—in the Missouri admission bill, which had prohibited slavery so long as it should remain Territory in that part of the country covered by the Louisiana purchase north of $36^{\circ} 30'$. The repealing bill itself gives reasons for this action, (1) because such prohibition was contrary to the ideas of fairness held by a majority in the Congress of 1850; and (2) because it was “the true intent and meaning of the act not to legislate slavery into any State or Territory or exclude it therefrom, but to leave the people thereof perfectly *free* to form and regulate their domestic institutions in their own way subject only to the Constitution of the United States.” It also provided that when this Territory came to ask admission to the Union as a State or States it should be received with or “without slavery as their constitutions may provide.” This was exactly what every State in the North and California on the Pacific had done for herself and according to her own views, and each had passed such laws on slavery as her interest had dictated,—in all respects former new States and Territories had regulated their own domestic matters, and it was thought but right that the same privileges be accorded to any other States yet to become a part of this Union. The bill became a law; and since, in the words of a former President of the United States, its fairness “could not be withstood on its merits,”⁹⁸ so it was made the opportunity for one of the greatest political strategic moves in the history of our country. To fully appreciate the significance of this movement we must look carefully to the Constitutionality of the repeal, its fairness, and propriety. The objections to the Kansas-Nebraska bill and the methods for defeating its normal results give us the key to the Northern motives and intentions.

⁹⁸Appendix Congressional Globe, 34 Cong., p. 9.

The Constitutionality of the Kansas-Nebraska bill cannot be seriously questioned. It was in full accord, and so recognized by the majority in two different Congresses, with the principles upon which the States ratified the Constitution. When the bill was pending before Congress, Mr. Douglas, who has the credit for being its most active advocate, voiced the sentiment of by far the greater majority of the whole people of the Union when he said, "It is due the South; it is due the Constitution."⁹⁹ Nevertheless, the abolition element in the North set up a loud protest. They burned in effigy Douglas and other Northern representatives who, "truer to the Constitution than to the prejudices of their constituents," voted for the bill, and renewed with increased energy their unholy crusade. Aside from the false position of moral duty which I have mentioned, they justified themselves upon three grounds: (1) The reopening of the Territory to the normal conditions of settlement was alleged to be "bad faith" or "violated contract." (2) Slavery, they claimed, would now grow so powerful, that is, the agricultural States would so increase, that its political power would never again be overcome; and (3) that it would be the cause of re-legalizing African slave importations and increase the import trade.

These objections deserve examination in detail.

1. "Bad faith and violated contract." There was no foundation whatever for this charge. The addendum to the Missouri admission bill, which imposed conditions on United States territory north of 36° 30', was a mere act of Congress, and neither before nor since has the right of Congress to repeal a former act ever been questioned. Such things are done at every session. As quoted by Mr. Robinson, Congressman Meacham, of Vermont, said, "I look at that compromise as a contract, a thing done for a consideration, and that the parties to that contract are bound in honor to execute it in good faith." Mr. Thayer, of Massachusetts, says that the South overthrew a "time-honored compact, and subjected herself to a charge of bad faith." Mr. Robinson says, "The free-soil men were roused with fresh zeal" and determined to "demand reparation for this bad faith."¹⁰⁰ The words "violated contract," "broken compromise," "bad faith," etc., furnished texts from which some Northern

⁹⁹Spring, Hist. of Kansas, p. 3.

¹⁰⁰Kansas Conflict, p. 20.

Congressmen contrived to fill considerable space in the Congressional Globe. Mr. Goodrich, of Massachusetts, and others of his contemporaries, lost no chance to vociferate from these texts. Mr. Phillips, of Alabama, and some of his able contemporaries at the time fully met these false alarms. As pointed out by Southern representatives in 1854, those of the Northern people who were opposed to the Missouri admission bill and its prohibitive addendum never did accept either it or its conditions or acquiesce in their passage.¹⁰¹ The opponents to the settlement of the Missouri question never ceased to heap popular insults and indignities upon those who voted for that settlement. Hence it was never accepted by its opponents as binding, and so failed in the essential of mutuality between contracting parties; and since it had no contract nature, it was no more than the merest legislative enactment. But the truth about the matter is that the Northern people, in the main, repudiated what we call the Missouri Compromise until in its repeal they saw what they thought threatened their political power. When in 1820 the Missouri measures became law, the North cried out in protest; when in 1854 the prohibitive measure was repealed, they again cried for "the flesh pots of Egypt."

During all these protests the South could not help but feel that the inconsistency of the Northern position was without a parallel. As I have said, the slavery recognition in the Constitution was, like all national compacts and practically like all legislation, a compromise as much so as the settlement of the Missouri question. But more, the Constitution was not a legislative enactment. In the convention which framed the Constitution, with one single exception, all the States represented were slaveholding. Some of the States said plainly that if some recognition of slavery was not made they would never ratify the Constitution; would remain out of the new Union, which would have left them free, sovereign and separate republics. The Constitutional recognition of the legal existence of slavery in the States was, therefore, made to secure the coöperation of all the States, because a refusal of any one State to join the new Union was recognized to portend danger to the new Union Republic. Upon the strength of this compromise Congress passed laws.

¹⁰¹Jas. K. Hosmer, Ph. D., LL.D. (Minn.), *A Short Hist. of the Miss. Valley*, p. 166.

The South contended that it was the greater breach of faith or violation of compromise to nullify laws passed and reaffirmed by Congress pursuant to the great original compromise, than the legitimate repeal of past legislation. Sec. 3, Article IV., of the Constitution of the United States says, "No person held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered upon claim of the party to whom such service or labor may be due." No one has ever questioned that this applies to runaway (or enticed away) slaves. At the time it became the organic law of the land its moral right or validity was not questioned. But afterward certain Northern States took it upon themselves to be the moral arbiters of American legislation, and ten States—ten legislative bodies sworn to pass no law in conflict with the Constitution,—passed State enactments which nullified what they had sworn to revere. This was the moral dilemma of the North *before* the repeal of the so-called Missouri Compromise,—before Congress gave the people of Kansas the right to decide for themselves what their attitude upon domestic servitude should be.

The editorial introduction to "A Personal Liberty Act (1855)" by A. B. Hart, Harvard University, as contained in his historical handbook, is liable to mislead. He says, "This statute is a fair sample of those passed by nine other States in the North. They were not caused by the Fugitive Slave Law itself so much as by the Kansas-Nebraska Act."¹⁰² "*They were*" caused by the Fugitive Slave Law, or were as much without excuse as they were without justification—either horn of the dilemma leaves them nullification of Federal laws. The Act which Prof. Hart gives is itself only a stronger form of a similar Act passed in 1843—eleven years prior to the Kansas-Nebraska Act. For twenty years nullification of the national slave laws had been in one form or another attempted by Northern States;¹⁰³ and from Iowa to Maine legislatures and rebellious mass-meetings, before the Kansas-Nebraska bill, had echoed such sentiments concerning the United States law of 1850 as, "Disobedience to the enactment is obedience to God"; or, "Any man who

¹⁰²Am. Hist. Told by Contemporaries, IV., p. 93.

¹⁰³Wilson, Division and Reunion, p. 208.

in any way aids in the execution of this law should be regarded as false to God and totally unfit for civilized society."¹⁰⁴

So it is seen that the cry of "bad faith," or "broken contract," is a hollow emptiness. The abolition element for political gain had seized upon slavery as the cudgel with which to fight its way to political control, and the cry of "Stop thief" was but a subterfuge. The North complained of the harshness of the fugitive slave laws, but forgot that these complaints would have had absolutely no instance of justification—few as there were—but for the folly and "bad faith" of those who encouraged and aided and incited, by sending emissaries, incendiary books, circulars, papers, etc., the slaves to leave their Southern homes.

In the great throb of expansion, which made our country to vibrate like a reed, concessions and readjustments from all sides were unavoidable. Of these the South, to say the least of it, made as many as did her northern sisters. But at no time was the prime motive factor one of moral or religious consideration; all the while and all the time both sides acted from questions of pecuniary policy. To understand fully this fact it will be necessary for us to recall some of the history of our country prior to the passage of the Missouri measures by Congress. It must be borne in mind that the addendum to the Missouri bill prohibiting slavery in the territories while in a territorial state outside of Missouri and north of 36° 30', applied only to the Louisiana Purchase. At the time this provision became operative (1820), the United States had no claim, except a joint occupancy with Great Britain of the Oregon country (begun in 1818, ended in 1846), further west than the western border of Louisiana; thence with the Red river west to the present boundary of Oklahoma; thence north to the Arkansas river; thence west to the present boundary of Colorado, and thence north to the Oregon country. All to the west and south of this territory belonged to Mexico. From the very first the North had opposed the purchase of the Louisiana boundary. This opposition was one purely political in its origin. John Quincy Adams, of Massachusetts, speaking of the proposed purchase, said, "One inevitable consequence of the annexation would be to diminish the relative weight and in-

¹⁰⁴Smith, *The Liberty and Free Soil Parties*, p. 227.

fluence of the northern section."¹⁰⁶ Of this opposition Mr. Sparks, of the Chicago University, remarks that the "New England interest lay at sea, and she had no sympathy with southern agriculture. Even her infant manufactories would desire to prevent western migration for the sake of retaining workmen. Such considerations, founded on inherited conservatism, were engendering an obstructionist feeling in that section characteristic to this day."¹⁰⁷

In the territorial division as made by the Missouri Compromise, the North secured an advantage which she showed was fully appreciated when it came to a question of repealing the restrictive clause or addendum. To the south of the line set for the expansion of agricultural interests where slaves might be employed, were less than 224,445 square miles, while to the north of that line were over 964,667 square miles of territory. As Mr. Sparks remarks, "This meant one or possibly two states for the South, and at least six or seven for the North."¹⁰⁷ It was about that time that Mexico revolted against Spain, and no one could guess or even suspect that we should afterwards acquire Texas any more than it was then suspected that we should by this time own important islands thousands of miles from our mainland. This division was unfair to the South, and the advantage it gave the North was one reason why the repeal of the limiting provision was opposed so strongly in 1854.

That section of Mexico next to the United States seceded, and in 1837 applied for admission to the Union as the State of Texas. It had previously been recognized as the Republic of Texas by England, France, Belgium, and the United States. Of course, this application raised a political storm; the annexation of Texas meant more strength in the Senate for agricultural interests, and these interests had little in common with those of the North as they were at that time. It is plain that the opposition to the admission of Texas was almost wholly based upon purely political considerations. Michigan struck the keynote of the opposition in the resolution unanimously passed by her legislature April 2, 1838, when she declared, "And, whereas, the extension of this General Government over so large a country on the southwest, between which and that of the original states, there is so little affinity and less identity of interests would

¹⁰⁶ Sparks, *Expansion of the American People*, 201, n. 1.

¹⁰⁶ *Ib.*, 201.

¹⁰⁷ *Ib.*, 311.

tend, in the opinion of this Legislature, greatly to disturb the safe and harmonious operations of the Government of the United States, and put in eminent danger the continuance of this happy Union." Massachusetts, by her legislature, in protesting, declared that the annexation of Texas would "disturb the relations of the different sections" of the country in Congress. That is, she was excited because the political predominance of the South seemed to loom across her pathway. Maine protested through the lower House of her legislature because she said the annexation of Texas was "directly calculated to disturb our foreign relations, to destroy our domestic peace, and to dismember our blessed Union." William H. Seward, at one time governor of New York, for years a member of the United States Senate, and finally member of Lincoln's cabinet, on July 13, 1844, in a speech to "one of the largest assemblages ever convened in Western New York," said, "Texas and slavery are at war with the interests, the principles, and the sympathies of all. The integrity of the Union depends on the result. To increase the slave-holding power is to subvert the Constitution; to give a fearful preponderance, which may, and possibly will, be speedily followed by demands to which the democratic free labor States cannot yield, and the demand of which will be made the ground for secession, nullification, and disunion."¹⁰⁸

No fight on moral grounds was made in Congress or by any important number of individuals in the North against the admission of Texas or other territory where slavery was or might be legal. And as a matter of history, the fact is well known that not until nearly 1840 had the North caught the idea that any cause will have more general support if it can claim moral considerations as an excuse for its existence. Northern leaders saw that by furnishing erroneous information with reference to the condition of slavery in the South, and that by painting a picture of that institution in such a light as would be repulsive to the religious convictions of men, much could be gained for political support that would never be reached otherwise. Until false figures, erroneous representations, books which had no foundation in truth, and inflammatory literature, did their work, the abolition movement found widespread opposition in the North. While this opposition never entirely disap-

¹⁰⁸Works, v. III., p. 253.

peared, yet it surrendered to the more aggressive and less scrupulous element. It was but natural that Northern born men should stand by their leaders when the crucial crisis came, even though they believed, as many did, that the desired end might have been reached had other methods been adopted. I do not forget to give the proper credit to the comparatively few honest moralists who combined their efforts with a large number of designing politicians; but just the same, the whirlpool which was engendered engulfed the nation.

The fact that the abolition number in the North for many years was small, did not indicate a large pro-slavery element. It simply meant that Northerners generally believed in allowing the South to solve her own slave question just as had the several States of every section of the North—from New England to Illinois and Minnesota and California—just as did Old England, and as were the nations of the earth doing.

Let me say here, once for all, that the claim that the "sin" of slavery must find an atonement in the shedding of white blood, is forever refuted by the fact that England suppressed slavery and the slave-trade, and remunerated her slave-holders, too, and not a drop of blood did she shed. I feel sure that the *unanimous* verdict of the learned world is that no other people or nation, or the individuals of any other nation or part of a nation, ever committed more sin against the negro than did England. The history of the destruction of slavery in English dependencies unquestionably refutes the false theory that America could rid herself of slavery only through a blood atonement.

As soon as the struggle over the admission of Texas was over, in appreciation of the fact that we were liable to acquire other territory from Mexico, David Wilmot, of Pennsylvania, in 1846, "brought before Congress a bill to *prohibit slavery* in all the territory which might be secured by treaty with Mexico." This bill was lost. It was called the Wilmot Proviso, and its promoters went before the country with a candidate (Mr. Van Buren, 1848), but so weak was the party favoring slave prohibition or any national interference, and so illy defined was its position with reference to slavery in the territories, that it had little support, and Gen. Tyler, a native of Virginia, was elected. This shows that the Southern people were

by no means peculiar in their views of slavery; and that the people in the North who claimed to be anti-slavery on moral grounds were not strong enough to have had any appreciable weight in the emancipation of New England slaves. In another division I discussed the growth of anti-slavery sentiment on Northern soil, and examined the meaning of the coöperation of the North with the South in passing national slave laws. In September, 1849, the question of local or national control of slavery came again before the people. Delegates representing the Territory of California met and framed a State Constitution, and inserted a clause in prohibition of slavery. Upon this Constitution she asked for admission to the Union. At once the Northern anti-slavery advocates espoused her cause, and argued that *she*, in her *local capacity*, as of right she might, had settled the slavery question. This was the precise doctrine of the repeal clause in the Kansas-Nebraska bill, and the position for which the South had contended, and so Southern members of Congress voted with the North for the admission of California. However, there was considerable opposition to the admission of that State, not because of the doctrine involved, but because the South insisted that the North was not acting fairly on the slave question. A large part of California is south of 36° 30', and a fair application of the restrictive clause would have preserved that part at least free from restriction. Nevertheless, the Northern party exhibited "bad faith," and themselves, declare Julian Hawthorne¹⁰⁰ and other Northern historians, proposed a violation of the Missouri Compromise. It was contended, and rightly, that under the Constitution Congress had passed a law providing that escaped slaves should be returned. It was pointed out that the North not only refused to return slaves that had run away, but that her citizens were aiding them to escape and inciting them in every possible way to do so; and that Northern States themselves had become parties to these unlawful acts by their legislative enactments in nullification of the laws of Congress passed pursuant to the Constitution. It was readily seen that when it came to strengthening political power the Northern politicians were very much in favor of the right of a State to decide her local, domestic affairs. This contradictory position of the North helped to augment the bitterness between the

¹⁰⁰Hist. U. S., Vol. 3.

two sections, and to make each slower to make concessions to the other. Clay, the great Kentuckian, has the credit of being the temporary peacemaker. He came forward with what is known as the Omnibus Bill, so named because of its numerous provisions. It provided (1) for the admission of California as a free State; (2) the making of four States out of the new Texas territory, with the provision that these States should determine for themselves the question of slavery; (3) the establishment of the Territories of New Mexico and Utah without slave conditions; (4) the establishment of the boundary between Texas and New Mexico; (5) the enactment of a new law for the recovery of runaway slaves; (6) the abolition of the slave-trade in the District of Columbia, which market had been supplied by the ships of Northern men, thus cutting off a considerable source of revenue to a large class of Northern capitalists. This bill is sometimes denominated the Compromise of 1850. It shows concessions from both sides, and demonstrates that political considerations and not an awakened conscience on the part of either the North or the South, led to each new agitation of slavery.

We have, then, as precedents to the Kansas-Nebraska bill the organization of all previous territories from the earliest of the original Northwest to California, and those in the intervening space which had grown less rapidly: Utah and New Mexico,¹¹⁰ which, in the words of Jas. K. Hosmer, Ph. D., LL. D., of Minnesota, were erected into Territories "with the provision that the people living there should decide whether or not slavery should exist."¹¹¹ The opposition to the Kansas-Nebraska bill was left without excuse or justification; precedent, Congressional declarations, the voice of the majority in the United States, and the Constitution, all proclaimed the Kansas-Nebraska bill fair, legal, and a measure which placed the new Territories upon an equal footing in all respects whatsoever with all prior Territories. The results of the Kansas-Nebraska bill were so far-reaching that the other objections to it must be examined at greater length.

¹¹⁰Reports of Committees, 36 Cong., 1 sess., v. 3, No. 508, Min. R.

¹¹¹A Short Hist. of the Miss. Valley (1901), p. 169.

V.

THE NATIONAL CHARACTER OF SLAVE LEGISLATION.

COTTON AND SLAVERY; SLAVERY IN THE OLD NORTHWEST; SLAVERY
AND OREGON.

2. As I said, there was a certain objection urged by the North to the repeal of the addendum of the Missouri admission bill which prohibited slavery north of $36^{\circ} 30'$ and outside of Missouri, and that was that this repeal meant the spread of slavery to such an extent that it threatened the very safety of the Republic.

Human beings increase as rapidly, food and clothing being reasonably obtainable, in a small area as in a large one. Among the slaves of the Southern States every rational opportunity was given for increase that could have been given in greater territorial area. Its restriction to a given territory did not affect slavery so far as the condition of the negro himself was concerned; non-restriction would, in some instances, have given a more healthy locality in which to live and labor. Its territorial spread would make more agricultural interests, and each new agricultural State added political weight to the South. This made its territorial spread a matter to be feared by Northern politicians; and no matter how little of real danger there was in this, it served to arouse the populace. Yet those who used the argument that the territorial spread imperiled the nation either did or could have known its untruth, and hence must be held responsible for the result.

Let me state more fully some of the different phases of the Northern argument or contention, and then look carefully to its foundation.

"A Southern Oligarchy," "a plutocracy of slavocrats," and similar appellations were, and too frequently yet are, gratuitously applied to the citizens of the Southern slave-holding States. In a

similar strain Mr. Rhodes¹²² says, "The South set aside the Missouri Compromise." As a matter of fact, the South did no such thing. Neither did the South enact the much-abused fugitive slave law of 1850, nor that of earlier years, as I have elsewhere said. When Mr. Rhodes and other Northern writers speak of the repeal or setting aside of the "Missouri Compromise," they refer to the repeal of the addendum to the Missouri admission bill, which, as above shown, affected not Missouri, but the then unsettled territory to its west and north, and in which Congress attempted to prohibit slavery while these new lands should remain in the territorial state. On the first passage of the repeal measure as contained in the Kansas-Nebraska bill, the Senate vote was thirty-seven for it and fourteen against it.¹²³ In the House it was carried by a majority of thirteen.¹²⁴ And on final vote (some amendments having been made in the House) it was passed in the Senate by a vote of thirty-five to thirteen.¹²⁵ The fugitive slave law of 1850 was likewise passed by the aid of a goodly number of Northern Senators and representatives. So that these later chief Congressional acts touching slavery were, like the regulations of the earlier Congresses and the slave provisions in the Constitution, of a more national emanation than many of our most cherished and respected laws enforced to-day. Hence, the terms "slave power," "Southern Oligarchy," etc., as applied to a party or class peculiar to the Southern States, are empty vituperations. That they are such is admitted in the strangely inconsistent claim, so loudly heralded to the world, that as the middle of the century approached the "slave power" was marshaling into its ranks such numbers as threatened to fasten slavery forever upon the United States of America. Northern abolition advocates were held up as martyrs, and the appeal was sustained by such instances as the dragging of Garrison through the streets with a rope around his neck, the killing of Lovejoy in 1837, and the burning of his office by a mob in Alton, Illinois; the burning of Pennsylvania Hall, and the destruction of the library belonging to Whittier, the poet, at which time he barely escaped the mob with his life.

¹²²Hist. of the U. S., v. I., p. 499.

¹²³Schouler, Hist. U. S., v. V., p. 289.

¹²⁴Ib., 288.

¹²⁵Ib., 288.

As the rising sun of universal freedom shifted the shortening shadows which fell across the march of our nation, demagogues took advantage of the unavoidable incidents of progress and proclaimed effects to be causes. The history of the anti-slavery sentiment among the Southern people themselves suffered not least by reason of this mistake. It was usual to begin by pointing to the prevailing emancipation sentiment throughout the South in the first years of the last century. We are told that the much lauded Ordinance passed by Congress in 1787 for the government of the Northwest Territory, secured against the introduction of slavery the States of Indiana, Ohio, Illinois, Michigan, and part of Minnesota, into which the original Northwest Territory has been carved. This Ordinance was passed by the feeble Congress sitting under the old Confederation; but eight States of the thirteen were at the time represented, and five of these were then regarded as Southern States. The committee which favorably reported the bill had a majority of Southern men. It is admitted to be a Southern measure.¹¹⁶ No one now questions that the leading Southerners in the first years of the last century were anti-slavery advocates.

About 1830 the emancipation tide began to recede from the Southern shores, and within a very few years the abolition advocates were practically all in the Northern States. As late as 1837 Birney, the president of the American Abolition Society, which had gathered within its folds almost the entire abolition element of the North, estimated that in Maine, New Hampshire, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, Ohio, Indiana, Michigan, and Illinois there were 112,480 abolitionists.¹¹⁷ This was a very small per cent. of the total Northern people. So those who agitated the question then, and many who seek to justify them now, argued that the "slave power," as they were fond of calling the political party that had so often predominated, was growing in strength. They said this was evidenced not alone by the decrease of abolitionists after the type of Jefferson, Randolph, and such Southerners, but, in strange contradiction to the charge of a dominating "Southern oligarchy or plutocracy of slave-holders," they pointed out the national character of the various slave provisions of the

¹¹⁶Hinsdale, *Old Northwest*, p. 260; Rhodes' *Hist. of the U. S.*, v. I., p. 15.

¹¹⁷The *Anti-Slavery Examiner*, No. 8, p. 7.

Union, and insisted that danger was threatened because of the large number in the free States themselves who voted side by side with Southern men in the nation's legislature at Washington in enacting laws to enforce the Constitutional provisions concerning slavery; and who voted to grant slave-holders in the Southern States the identical privileges slave-holders in the North had enjoyed; and who endeavored to give the slaveholder and his home some measure of security; and who voted with the South to give citizens of new Territories and States the same privileges which citizens of the older States and the first Territories had enjoyed in forming their respective constitutions or in regulating their internal affairs. So it was argued that this coöperation of a large element in the North with the South meant the territorial spread of slavery until it should become irredeemably an American institution. This contention gave to the latter years of the anti-slavery movement its greatest numbers. I shall here briefly state some of the reasons which show that this argument was unsound. I propose to submit that it was not supported by past history and not borne out by current events. It was accompanied by false and, as fairly representative of any considerable portion of the slave-holding class, wholly misleading information as to the condition and treatment of the slaves. Such claims stirred and moved the masses at the North, but being false in fact, and unsound in logic, and devoid of true philanthropy in result, the secession which was finally provoked was therefore chargeable to the aggressors; and just as the North holds the South responsible for the actions of her leaders, so should the North be held responsible for the actions of those who misinformed and misguided her masses.

First. Let us examine the alleged cause for the decline of the emancipation sentiment in the South.

Many distinguished writers tell us that it was the invention of the cotton-gin which gave to slavery a new hold on the South; and that it was because the planter saw a new source of profit in his slaves that caused him to abandon emancipation tendencies. Such men as Richard Henry Dana insisted that "the lords of the loom and the lords of the lash," as he expressed the political situation, had conspired to perpetuate negro slavery. Rhodes says, "It is more than probable that the invention of the cotton-gin prevented the

peaceful abolition of slavery. . . . Cotton fostered slavery; slavery was the cause of the war between the States."¹¹⁸ This is a representative Northern error. The cotton-gin did procrastinate the emancipation of the Southern negro; it did nothing more. At its greatest possible length in the onward sweep of the world's progress, that delay could not have been fraught with any very serious consequences—to the nation most certainly—*provided all abnormal emancipation agitation had been absent*. Just here is where Mr. Rhodes' voluminous discussion of Southern slavery fails; in so far as he treats it at all, he treats the *abnormal* abolition agitation as a *result* of the slave conditions; whereas, it was the agitation with all of its variety of *unlawfulness* which produced the conditions, and continued the slavery.

If there is one point upon which writers generally agree more unanimously than another, it is that slave labor was of an inferior kind, and absolutely not susceptible of any important improvement. The products of slave labor, natural advantages of climate and soil being anything like equal, cannot successfully compete with those of free labor. J. A. Doyle, Fellow of All Souls College, Oxford, England, speaking of the negro slave, says that "no attempt to enlarge his sphere of activity can be attended with profit. The time given to the new acquisition is so much waste and his mental incapacity and absence of any moral interest in his work almost necessarily limit him to a single task."¹¹⁹

Not only is the product inferior, but in slave communities competition in labor is impossible. Intelligent white labor avoids menial occupations in slave territory. Writing with reference to the negro slave as he was in the Southern States, with all the history of those States before him, Mr. Doyle, in 1882, also says, "And when once negro slavery was firmly established any rival form of industry was doomed. For it is an economic law of slavery that when it exists it must exist without a rival. It can only succeed when it is a predominant form of labor."¹²⁰

Now, the cotton-gin did not belong to the Southern States of America, nor was theirs the only cotton country. During the Civil

¹¹⁸Hist. of the U. S., v. I., p. 26-27.

¹¹⁹English Colonies in America, p. 388.

¹²⁰Ib., 387.

War at a cotton-growers' conference, gathered in response to English manufacturers, thirty-five cotton growing countries were represented. Of these Peru, the West Indies, Brazil, China, Italy, Turkey, Greece, India (which alone cultivates over 14,000 acres), and Egypt presented the most formidable source of competition. We are told that "the colonies and dependencies of Great Britain, including India, seemed well able to grow all the cotton that could be required."¹²¹ The same authority tells us that even prior to 1793, the advent of the cotton-gin, "progressive improvement in the cultivation" of cotton had begun in all these countries. Brazil lingered longest in the crude methods of slavery, and as a result these "rude and expensive methods of cultivation" for some years operated against the Brazilian cotton industry. Thus it was early demonstrated that the free labor and intelligent interest employed in the vast cotton fields of the world made a competition which nothing but improved methods and machinery, such as railroads, improved compresses, intelligent application of fertilizers, improved gins, and the various other improvements over slave methods, such as the South everywhere exhibits to-day, enables her to meet in competition the cotton crop of the world. The Southern white man has joined the labor forces necessary to do all this; during slave days to have him do so was impossible. Nor was this all: outside capital, which has done much to destroy Southern conservatism, could never have entered the Southern market under slave labor. These conditions of slavery made themselves early felt in the more northern of the Southern States. It is a correct observation of William Garrott Brown, in his 1902 course of Harvard University historical lectures, when he says, "Slavery in Virginia was a failure as compared with free labor in the North. . . ." And he further states what was an undisputed condition which was growing out of this, when he says, "By the beginning of the nineteenth century it was clear that Virginia and the upper States of the South, if left to themselves, would almost certainly change their industrial system."¹²²

So, while waiting for improved methods of industry under slavery, other cotton countries would have passed the Southern

¹²¹Werner's *Enc. Brit.*, *Cotton*.

¹²²The Lower South in American History, p. 15.

States in the excellence and amount of the crop, which would have forced planters to an unprofitable cultivation. This would have brought emancipation or bankruptcy—and unquestionably bankruptcy meant emancipation for the negro. (Egypt alone could have produced this condition. Some years ago an authority wrote, "It is not perhaps too much to say that Egypt is the finest cotton-growing country in the world; it is not surpassed in productiveness even by the Southern States of America. So firm is the growth of cotton established, and so fully are both the government and the people alive to its importance and advantages, that there is no reason to apprehend that it will be allowed to decline or that Egypt will ever lose its place as a source of supply."¹²³ How formidable a competitor this fertile Nile country has become is shown from our most recent (1900) census of the United States. In it an authority says: "The use of Egyptian cotton for the manufacture of fine fabrics, but more especially as material for knit underwear, has grown greatly during the last decade. . . . Egyptian cotton possesses some peculiarities which adapt it especially to the use to which it is put. It is especially desirable, on account of its natural silkiness, for the process of mercanization."¹²⁴ We are now importing for manufacturing in America yearly about five million dollars worth of this Egyptian grown cotton. With the intelligence of free labor and the improved gins which were early introduced, the great cotton countries of the world soon would have driven Southern slavery from its last stronghold.

Then, again, whatever the possibilities which cotton furnished slavery, these were limited to a comparatively small area of the Union territory as it existed at the time when the anti-slavery fires began to burn with such fury in the North, or even considering the United States as she is to-day. A glance at the cotton area, as shown on the map accompanying our last census, will show that free territory must forever have been in the ascendancy. If, as Brown, whom we quoted a few pages ago, and all Northern writers agree, Virginia and the upper Southern States would have emancipated their slaves early in the century if left alone, then this would have reduced the slave territory to such an insignificant area, and this

¹²³Werner's *Brit. Egypt*.

¹²⁴Twelfth Census, v. IX., pt. 3, p. 37.

small area would have had such a minority in the nation's voice as would have rendered it entirely harmless during whatever time natural, normal progress required to drive slavery from American soil. Whatever agitation checked this inevitable end, was the result of fanatical excitement or the want of patriotic and statesmanlike foresight. That there was no other industries then or now which could have fostered the continuance of slavery, the evidence of so eminent a scholar as Mr. Rhodes will be representative of the almost unlimited cumulative evidence I might adduce. He says, "Rice, sugar, and cotton were, apparently, the only products for which slave labor was necessary, and compared with cotton, sugar, and rice, were insignificant products. Tobacco and grain could be cultivated with greater economy by freemen."¹²⁵ Hence, when competition had destroyed the cotton industry, it must at the same time have destroyed the slavery to the existence of which a profitable production of cotton was absolutely necessary.

However much or little the true solution was comprehended either North or South, the fact yet remains that the possibilities of cotton were fully realized and that early in the last century,—at least prior to 1815. The cotton-gin was invented in 1793, and before 1815 it had revolutionized the cotton industry. More than two nations were awake to the possibilities of one of our greatest modern industries. Long after this time the South continued to be the strong advocate of emancipation.

The Kentucky abolition society, in a petition communicated to Congress in January, 1816, speaking of Southern conditions—and no one disputed the assertions—said that "great numbers of slaves have been emancipated and it may be expected from the spirit of benevolence that seems to be taking place among all classes of citizens that the number will be daily increasing."¹²⁶ A quarter of a century of the new era of cotton saw no diminution in Southern emancipation tendencies. During this time abolition had grown steadily no less rapidly in the South than in the North. It was as late as 1832 that the legislature of Virginia came so near passing a gradual emancipation law. As Webster said, there can be no doubt but that if interference had been absent that State

¹²⁵Rhodes' *Hist. of the U. S.*, v. I., p. 26-27.

¹²⁶*Am. State Papers: Misc.*, v. II., p. 279.

would have carried out within a few months the work which was so nearly finished at that time.¹²⁷ Dunn, who by no means is in sympathy with the Southern contention, in his history of Indiana, says, "In 1827 there were one hundred and thirty abolition societies in this country, and only twenty-four of them were in the free States."¹²⁸ We see, then, that for more than a quarter of a century the growth of the cotton industry moved side by side with Southern emancipation teachings and extensive organized efforts in that section to make emancipation safe and practical in the South. But long before 1827 the South had been subjected to a cross-fire. On the one hand she realized the necessity and felt the desirability of emancipating her slaves, and on the other hand she was attacked by at first the few but constantly increasing Northern abolitionists with the most violent bitterness. Very early it began to be discovered that such an agitation by the North produced most disastrous results upon the slaves themselves. So that within a very few months after the tide started northward the South completely changed her front; the agencies that had long since begun to work in her midst had brought the Southern people to confront conditions which involved more than money; more than political and economic conditions. The South was forced to realize that an agitation of emancipation, especially when that agitation was accompanied by the systematic work (such as will be noticed in examining the "underground railroad" movement) of assisting slaves to run away in large numbers, made the slaves a source of danger to be feared as much by Southern men and women as they were feared by Northerners during the slave period in that section. For instance, in New York, where in 1741 an unfounded fear of a servile insurrection caused "fourteen negroes to be burned at the stake and twenty-four hanged."¹²⁹ Mr. Seward, once governor of New York, for a number of years a United States Senator and Secretary of State under President Lincoln, tells us that on this occasion lawyers refused to defend the accused, and that the Supreme Court and the entire bar assisted in the prosecution; and that in addition to those killed "fifty were transported and sold into foreign slavery."¹³⁰ Or

¹²⁷ Webster's Works, v. 5, p. 357.

¹²⁸ Hist. of Indiana, p. 190.

¹²⁹ Theodore Roosevelt, New York, Historic Town Series, p. 101.

¹³⁰ Works, Vol. II., p. 59.

where in 1863 "many negroes were hung or beat to death with lingering cruelty" on the mere suspicion of incendiarism.¹²¹

So for those who do not arbitrarily refuse to regard the human nature common to all Americans, it is not difficult to see that the Northern emancipation agitation, carried on as it had come to be before 1830 on Southern soil and among the slaves themselves, threatened not alone property in the slaves, but, in the words of Governor White in his message to the legislature of Louisiana in 1836, jeopardized "our peace, our fortunes, our lives, and those of our children."¹²² Later in this monograph I shall call attention to the fact that the combined efforts of all classes of anti-slavery men at the North resulted not alone in the destruction of Southern anti-slavery sentiment, but that the stream became so turbid as it hurried down the years from the northward that the Southern leaders came to believe that secession was the only remedy.

Having seen something of what was and what was not the cause of the decline of anti-slavery teachings in one locality of the Union, I desire now to present what I submit shows that at no time in our nation's history was the per cent. of pro-slavery advocates increasing—the nation considered as a whole; and, second, that the co-operation of the many in the North with the pro-slavery Southerners did not threaten the territorial spread of slavery until it should become a dominating political force and a menace to the nation. Incidentally, it will be seen that the economic forces which I have mentioned as destined finally to reach the cotton industry, were already at work in our country. The same economic forces which had shaped the early political attitude of New England on slave questions were steadily driving all American negro slavery to an unprofitable basis, which necessarily meant its final rooting from our soil.

That slavery disappeared from the older North because it became unprofitable cannot now be seriously questioned. That this is now generally admitted, the testimony of the following eminent Northern scholars will leave no doubt: F. A. Walker, Ph. D., LL. D., president Mass. Inst. Tech.;¹²³ Joel Dorman Steele, Ph. D., F. G.

¹²¹Roosevelt, New York, p. 204.

¹²²Gayarre, Hist. of Louisiana, v. IV., p. 651.

¹²³The Making of the Nation, p. 209.

S., and Esther Baker Steele, Lit. D.;¹⁸⁴ Professor Channing;¹⁸⁵ Carroll D. Wright, LL. D. (some years United States Commissioner of Labor),¹⁸⁶ and George Bancroft.¹⁸⁷ Pages might be filled with such eminent names. That unfavorable economic conditions drove slavery from the North is not disputed by any one of recognized authority, so far as I can learn; but the fact that it is often treated in such a way as to cause the force of this truth to be lost, makes it necessary to give it some emphasis here. Let me content myself by quoting the language of the eminent historian and politician, George Bancroft, of Massachusetts, who was first Secretary of the Navy and the minister to England. He says of the negro that "... even the climate of Virginia was too chill for him. His labor, therefore, increased in value as he proceeded south; and hence the relation of master and slave came to be essentially a Southern institution."¹⁸⁸ And again he says, "At the end of the eighteenth century slavery seemed to be dying in America less because the consciences of men were aroused to its enormity than because it was economically unprofitable." Certainly it is of no little interest to add the cumulative testimony of a negro who, born a slave, has reached a standard of intellectuality unequalled by another of his race, and who sees the negro's past, present, and future with the comprehensive grasp of a philosopher,—Booker T. Washington. He says, "It was soon found, however, that slave labor was not remunerative in the Northern States, and for that reason by far the greater portion of the slaves were held in the Southern States, where their labor in raising cotton, rice, and sugar-cane was more productive."¹⁸⁹

Turning next to the newer North, which was for years the northwest, we find the same causes operated to determine the status of the negro.

In 1784 the United States created what is generally known as the Northwest Territory, and in 1787 Congress passed the famous Ordinance repealing that of 1784. This was the first territory held in common after the Confederated union of the thirteen original

¹⁸⁴Hist. of the U. S. (Barnes' School Series), p. 172.

¹⁸⁵Hist. of the U. S. (Student's), p. 140.

¹⁸⁶Industrial Evolution of the United States, p. 151.

¹⁸⁷History of the U. S., v. II.

¹⁸⁸History of the U. S., v. II., p. 275.

¹⁸⁹The Future of the American Negro, p. 6.

States. With this territory was inherited its Indian and negro slavery, both of which had existed under Spanish, French, and British dominion. From this territory were carved the present States of Michigan, Ohio, Indiana, Illinois, Wisconsin, and part of Minnesota. Its government was not organized until 1788. Arthur St. Clair, of Scottish birth and Boston residence, was its first governor. Jurisdiction was not extended to some of the French settlements until 1790.¹⁴⁰ July 4, 1800, the Northwest Territory had what is now Ohio and part of Michigan severed from it. The eastern part continued to be called the Northwest Territory until it became the State of Ohio in 1803. The western part, after the division, was called the Indiana Territory, and William Henry Harrison, of Tippecanoe fame, afterward elected President of the United States by the Whigs, was made the first governor. St. Clair was continued governor of that section which is now the State of Ohio, until it became a State with not so large an area as that covered during its territorial existence. The present State of Ohio in 1803 was admitted to the full rights of statehood. In 1809 the Indiana Territory had severed from it that portion to the west of the Wabash river,—after separation called the Territory of Illinois,—embracing all her lands to the northwest except Michigan, north of the present State of Indiana.

The Ordinance of 1787, re-creating the Northwest Territory, provided that it should be divided and erected into States when certain portions had a population of sixty thousand *free* inhabitants, or sooner, if Congress should think best. It was provided that these new States were to be admitted to their respective positions in the new Confederated union "on an equal footing with the original States in all respects whatsoever."¹⁴¹

Mr. Roosevelt, speaking of this Ordinance, says that "it stipulated that slavery should never exist in the States formed" from the Northwest.¹⁴² President Woodrow Wilson, Ph. D., Litt. D., LL. D., of Princeton University, in his recent masterly history, speaking of the formation of States from the Northwest Territory, says, "The Ordinance was still the law of the land. It forbade slavery for-

¹⁴⁰Dunn, *Hist. of Indiana*, p. 261.

¹⁴¹Hinsdale, *Old Northwest*, p. 264; Sparks, *Expansion of the American People*, p. 84-5; *United States Charters and Constitutions*, 249-432.

¹⁴²Winning of the West, v. III., p. 234.

ever."¹⁴⁸ With this opinion, which is held generally, I do not agree; and I shall submit the history of local slave legislation in the Northwest, and the attitude of Congress toward that legislation in support of my demurrer.

It will be remembered that the present Constitution of the Union had no existence when the Ordinance was passed. Since each new State was to be equal "in all respects whatsoever" to the older ones; and since the Confederation preserved to each old State its sovereignty, when the new States emerged from Territories, had there never been a change in the Confederation they would have passed into sovereign Statehood; hence, the management of internal institutions not surrendered to Congress would have followed. Since legal slavery in any State was not repugnant to the Confederation (or to the Constitution which supplanted it), the slave question must have fallen to the Northwest States, or to the people of the several Territories which became States, for their separate and respective final settlement.

In 1784 Mr. Jefferson offered the bill for the organization of the new northwest, which became the law, one article relating to slavery being the only exception to the adoption of the original draft. The language in this article and the language in the Ordinance, which became the law in 1787, are strikingly similar. The ordinance of 1784 attempted to apply the slave regulation to the period of Statehood. Congress refused to pass this provision. The sixth article of the Ordinance of 1787, which did become the law, read side by side with that of 1784, which Congress refused to accept, helps to make it clear that the one which became the law was intended *only for the Territorial period*.

¹⁴⁸A Hist. Am. People (Harpers, 1902), v. 3, p. 250.

SIXTH ART. (*the only slavery provision*).

ORD. (SLAV. PROV.) 1784.

"That after the year 1800, of the Christian era, there shall be neither slavery nor involuntary servitude in any of the said States, otherwise than in the punishment of crimes, whereof the party shall have been duly convicted to have been personally guilty."¹⁴⁴

ORDINANCE 1787.

"There shall be neither slavery nor involuntary servitude in said territory, otherwise than in the punishment of crimes whereof the party shall have been duly convicted; Provided always, that any person escaping into the same from whom labor or service is lawfully claimed," shall be returned.¹⁴⁵

This wording of the provision which failed to become a law, compared with the one that was enacted, the latter construed in the light of the several local Territorial and then State slave regulations which followed, resting upon the provision in the final Ordinance that the new States were to be on "an equal footing with the original States in all respects whatsoever,"—and this construed with reference to its purpose, careful attention being given to the wording of the Ordinance throughout,—all help us to see that the slave provision or the much praised "forever sixth compact," unquestionably was applicable no longer, at least, than the Northwest or any part thereof remained a Territory.

In fact, under the Constitution citizens of the Territories and Congress went further. Both the local organizations and the national government treated the slavery provision as binding merely until the local Territorial legislative authority assumed general legislation and thereafter only so long as the Territorial legislative power failed to take legislative action touching domestic slavery. Upon no other interpretation can we account for the action taken by the various local Territorial bodies, and the Congressional ratification of their laws, to both of which I shall presently call attention. The only legal effect of the Ordinance of 1787, then, was to give the non-slave-holding class the advantage in unsettled sections in the early settlement of the country—an advantage which they utilized. Having once the advantage, it was

¹⁴⁴Randall's *Life of Jefferson*, v. 1, p. 397.

¹⁴⁵Smith, *The St. Clair Papers*, v. I., p. 133; Willson, *A Hist. of the Am. People*, v. 3, p. 309.

plain that advantage easily could be held when the question came to be settled by local authorities.

What is it, then, in the Ordinance upon which historians base their claims that slavery was forever denied to both the Territories and States formed from the original Northwest? It is this:

On reading the entire Ordinance, it will be observed that it is divided into fourteen sections, and these are followed by six articles. The sections, after the declaration that the Ordinance is for the "government of the Territory," begins by setting forth that it is for the purposes of temporary government; then making some provisions for the descent of property, necessitated because of the recent rules of the Spanish, French, and later British laws, created the officials, and set out their duties; then it declares that the governor and judges shall adopt, publish, and report to Congress "such laws of the original States, both civil and criminal, as may be necessary," until the organization of the general assembly, which laws were to be "in full force" "unless disapproved by Congress" or altered by the legislature after it assumed the legislative duties. Then the functions of the legislators were declared to be to "make laws in all cases for the good government of the district, not repugnant to the principles and articles in this ordinance established and declared." And then section 13 introduces the Articles by declaring, "For extending the fundamental principles of civil and religious liberty, . . . to provide for the establishment of States and permanent government therein, and for their admission for a share in the Federal councils on an equal footing with the original States, at as early a period as may be consistent with the general interest:

"Section 14. It is hereby ordained and declared, by the authority aforesaid, that the following articles shall be considered as articles of compact between the original States and the people and States in the said territory, and forever remain unalterable unless, by common consent, to-wit: . . ." Then follow the six articles, the sixth and last, the slavery provision, the one I gave in full above. "Forever remain unalterable"—there is the historian's usual shibboleth. But—have these words been treated in their literal meaning? Not by very much. With the advent of our present Constitution, which supplanted the Confederation under which this Ordinance was passed, an interpretation has been given the entire document

more in conformity to the doctrines of the Constitution. That Congress meant to construe and enforce the Ordinance according to the principles of the Constitution is evident, in the first place, from the act passed at the first session of the first Congress (1789) under the Constitution, which was passed "so as to adapt" the Ordinance "to the present Constitution of the United States."¹⁴⁶

Section 4 of the Ordinance declares that the "said territory, and the States which may be formed therein, shall forever remain a part of this confederacy of the United States of America, subject to the Articles of Confederation, and to such alterations therein as shall be constitutionally made."¹⁴⁷ This mentions not the territory only, but the States to be formed therein, and passes such States under our Constitution as the "constitutional" successor of the Articles of Confederation; so that whatever applies to all other States under the Constitution, would apply to these new States. This article even goes further; it makes these States subject to all acts and ordinances of the United States "in Congress assembled," which are conformable "to whatever alterations are to the Confederation made." So that no Congressional provision could have been applied to one of these States which the Constitution would have forbidden to be applied to any State in the Union. Article 5 provides unequivocally for not more than five States, which provision has been utterly disregarded. It sets out the boundaries for these; this provision has been broken, and that without the consent of the States concerned.¹⁴⁸ It provides that the new States "shall be admitted [each] by its delegates into the Congress of the United States, on an equal footing with the original States in all respects whatsoever, and shall be at liberty to form a permanent constitution and State government,"—which shows that the government in the Ordinance itself had nothing whatever of *permanency* except that it meant to get the new States into the brotherhood of States just as if they had been of the original number—"share and share alike." In view of this fact, and the further fact that the word "States" is coupled with every extra-territorial compact throughout the articles, and is not used in the sixth and last, it is clear, to

¹⁴⁶U. S. Ch. and Cons., 433.

¹⁴⁷U. S. Ch. and Cons., 431.

¹⁴⁸Burnet, Notes, 350.

my mind, that even if there had been no change in the Confederation, the slavery provision would not have extended to the period of Statehood. But since the Constitution had not altered State jurisdiction over slavery, the new States were entitled to a like jurisdiction. After the adoption of the Constitution, the people generally took this view of the situation, and evidently they then felt that Territorial jurisdiction preceded State control; and as I shall show later, Congress actually recognized the validity of slave laws made by Territorial law-making powers. The principles of the Constitution prevailed. The Ordinance declared that a freehold in fifty acres of land "and two years' residence in the district, shall be necessary to qualify" a *man* to vote—no distinction as to color. By the Constitution of Illinois in 1818, section 27, it is declared that "in all elections *white* male inhabitants" only could vote.¹⁴⁹ Yet on December 3, 1818, Congress declared this in conformity with the Ordinance,¹⁵⁰ which meant the Ordinance as interpreted under the Constitution.

The wording of the first laws of Congress touching the slaves in any part of the country, be it territorial or State, is of importance in determining how Congress meant to interpret and construe the sixth or prohibitive article in the Ordinance. February, 1792, the first national fugitive slave law passed the Senate entirely without opposition, and in the House it had but seven in the negative. Its first provision was, "That when a person held to labor in any of the United States, or in either of the territories on the northwest or south of the river Ohio, under the laws thereof, shall escape into any other of the said states or territories, the person to whom such service or labor may be due, his agent or attorney, is hereby empowered to seize" and carry before an officer and have such fugitive returned. "Under the laws thereof," that is, under the *local* laws of either the Territory covered by the ordinance, or those of the Territory lying to the south of the Ohio river. Most certainly here is a plain statement that under the Constitution the Territories—"either of them"—might enact measures, so that "under the laws thereof" slaves might be legally held. Hence, from the beginning to the end, we have both the words and the acts

¹⁴⁹U. S. Ch. and Cons., 442.

¹⁵⁰*Ib.*, 449.

of Congress, in conjunction with the local legislatures, giving to the prohibitive clause of the Ordinance a construction in conformity with full local control of slavery.

Oregon's history furnishes some important evidence in support of my contention that under the Constitution of the United States slavery regulations were always left to the people of a Territory, and that afterward the same rule followed its people into Statehood. It is also a valuable witness, in support of my contention, that the Ordinance of 1787, as construed under the Constitution, did not forbid slavery jurisdiction to local Territorial authority or to their successors under State jurisdiction.

August 14, 1848, the President approved the act of Congress establishing the Territorial government of Oregon. This act attempted to apply the Ordinance of 1787 to the Oregon Territory. Section 14 declares:

"The inhabitants of the said Territory shall be entitled to enjoy all and singular the rights, privileges, and advantages granted and secured to the people of the United States northwest of the river Ohio, by the articles of compact contained in the ordinance for the government of the said territory, on the thirteenth day of July, seventeen hundred and eighty-seven, and shall be subject to all the conditions, and restrictions and prohibitions, in said articles of compact imposed upon the people of the said territory."

Hence, whatever relation the slavery provision of the Ordinance of 1787 bore to the Territories and States of the Old Northwest, appertained to Oregon.

"Squatter sovereignty," the right of the people in any political unit to determine their own local questions, one of which is domestic slavery, is nowhere more strongly seen than in Oregon's history. July 5, 1843, the people of Oregon Territory, "for mutual protection and to secure peace and prosperity among" themselves, adopted a code of *organic* laws "until such time as the United States of America extend jurisdiction over us," in the fifth article of which they declared that "there shall be neither slavery nor involuntary servitude in such territory."¹⁵¹ In 1844 the legislature of the provisional government again assumed jurisdiction of slavery, and also

¹⁵¹W. H. Gray, A. Hist. of Oregon (Portland and San Francisco, 1870), 353-4; Bancroft's Works, v. 29, 306.

passed anti-negro laws of extreme severity, designed to rid the country of free negroes, or mulattoes, "and to prevent the coming of others."¹⁵³ Section 14 of the Congressional act of August 14, 1848, also further declared that "the existing laws now enforced in the Territory of Oregon, under the authority of the provisional government established by the people thereof, shall continue to be valid and operative therein, so far as the same be not incompatible with the Constitution of the United States and the principles and provisions of this act, subject, nevertheless, to be altered, modified, or repealed by the legislative assembly of the said Territory of Oregon."¹⁵⁴ This unquestionably recognized as valid the prohibition of slavery by the local, Territorial, authority. Just as had all the local Territorial legislative bodies in the Old Northwest, so the people of Oregon understood that the concluding words of this same section declared that the Territory, irrespective of Congressional interference, might alter, modify, or repeal this local prohibition of slavery and establish it as a legal institution. This is forcibly manifest from the fact that the constitutional convention of 1857, in article 8, section 4, of the constitution, submitted to a vote of the people the question of slavery, and provided that if a "majority of all the votes given for and against slavery shall be given for slavery," the constitution should declare that, "Persons lawfully held as slaves in any State, Territory, or district of the United States under the laws thereof, may be brought into this State, and such slaves and their descendants may be held as slaves within this State, and shall not be emancipated without the consent of their owners."¹⁵⁵

Thus Oregon provided that the majority of her people, in their local capacity, and acting under the sixth article of the Ordinance of 1787, should decide her questions of legal servitude. No body of people in the nation questioned the legality of this provision. The constitutional convention which framed this provision numbered among its members some of the most able men who ever sat in a convention; many of them were lawyers of ability and standing from older States. One of them, Judge George H. Williams, was:

¹⁵³Bancroft's Works, v. 29, 438.

¹⁵⁴U. S. Ch. and Cons., 1489.

¹⁵⁵U. S. Ch. and Cons., 1506.

afterward attorney-general of the United States under President Grant; and as I write his voice yet echoes in praise of his co-laborers in that convention. Another, Judge McBride, is yet upon the bench in the State of Washington. No one questioned the legality of the submission of this question to the vote of the people of the Territory, and there is no doubt that if on vote the majority had favored slavery, it would have been incorporated in the Oregon fundamental State law, thus giving another indubitable proof that everywhere and all the time the Ordinance of the thirteenth of July, seventeen hundred and eighty-seven, as interpreted and applied under the Constitution, left slavery subject to the will of the local majority, untrammelled by Congressional interference.

It now remains to go back and see the local slavery history of the Northwest.¹⁵⁵ The Ordinance of 1787 did not touch the existing slavery. The slaves already held by the French, British, and other settlers in the Northwest Territory, were secured as property to the masters either under authority of Congress in its construction of the Ordinance, Jay's Treaty, or the treaty with France, all of which guaranteed to "settlers their property of every kind and protection therein, which applied to slaves as well as other property," so Mr. Hinsdale correctly says.¹⁵⁶ The slaves, most of whom were negroes, the remainder being enslaved Indians, thus secured to their owners, had been early introduced into this region by the French, who had settled in various places up and down the Mississippi valley from Canada to New Orleans. Negro slavery had existed in Canada since 1688, when it was introduced from the West Indies by government officials by consent of the King of France. Many of the settlers, especially those at Detroit in what is now Michigan, owned slaves from a remote Indian tribe, the Pawnees.¹⁵⁷ "The Pawnee slaves were captives taken in war and sold at low prices" to these first settlers in that part of Canada now belonging to the United States.¹⁵⁸ The French authorities thought that the negro in Canada would be a remedy for "the scarcity and dearth of labor";¹⁵⁹ but climate

¹⁵⁵An interesting account of the condition of the early Northwest slaves is given by John W. Monette, *Hist. Miss. Valley*, v. 1, p. 187.

¹⁵⁶The Old Northwest, 339; Dunn, *Indiana*, 252-3; Justin Winsor, *The Western Movement*, 288.

¹⁵⁷Burnet, *Notes (Cincinnati, 1847)*, 282 n. *et seq.*

¹⁵⁸Parkman, *The Old Regime in Canada*, 454-5.

¹⁵⁹*Ib.*

soon robbed the slave-owner of all profit in his slaves;¹⁰⁰ and so the parliament of Upper Canada, in 1793, provided for gradual emancipation. But in the country to the south of Canada slavery, at the time that part of the country passed under the jurisdiction of the United States, was not only then yet legal, but was regarded as necessary. The French slave-holding element of this Northwest country was comparatively numerous. No representative of the new people was present when the Congress of the thirteen States undertook to formulate a government for them. The wishes of this new citizenship were neither known nor asked. The temporary government the Congress gave the people, so they were correctly assured, did not touch existing slave property, but when it was realized that under the law as it then was, children yet to be born of slave parents would be free, these French citizens began to feel that they had been deprived of the power to hold property which was the natural increase of legal ownership, and that without representation, consent, or compensation. This feeling led to the first petition with reference to slavery which went to Congress from the Northwest Territory. This prayer was dated at the French town of Kaskaskia, in what is now the State of Illinois, January 12, 1796. It stated that the Ordinance had destroyed vested rights without the consent of the governed, and, justifying its request upon this and the further ground that the scarcity of labor made slavery necessary, the petition prayed the removal of all restrictions. It was signed by John Edgar, born in Ireland; William Morrison, of New England; William St. Clair, cousin of the governor of the Territory from Scotland, by way of Massachusetts, and John Du Moulin, a Swiss.¹⁰¹ They professed to act for two counties in the Territory, the greater majority of the citizens in which were French. Dunn says, "It is unquestionable that what they asked was desired by the people of those counties." Governor St. Clair, formerly of Massachusetts, forwarded the petition to Congress.¹⁰²

May 12, 1796, an adverse report was made by the Congressional committee to whom the petition had been referred, and thus the matter rested until 1799. In her deed to so much of the territory

¹⁰⁰Dunn, *Indiana*, 257.

¹⁰¹Dunn, *Indiana*, 287.

¹⁰²*Annals* 4th Congress, 1 sess., 1171; *Am. State Papers: Public Lands*, v. I., 60.

north of the Ohio as Virginia formerly claimed, she reserved a considerable tract of land in the neighborhood of the Miami river, which land she offered to those of her sons who had participated in and survived the Revolutionary War. August 10, 1790, Congress had granted these Virginians their lands and designated one tract north of the Ohio.¹⁵³ In this year of 1790, on February 4th, the first legislature of the Northwest Territory convened. Before this body these Southern soldiers who were entitled to the bounty lands presented two petitions praying the Territorial legislature to enact some law by which those of them who held slaves might carry them upon their new lands. The action of this legislative body with reference to these petitions shows (1) the legislature did not doubt its right to legislate so as to annul the prohibitive provision of the Ordinance; (2) this body had regard to the economic interests of their constituency in determining their actions; (3) when they thought slavery would retard immigration, they fell behind the Ordinance simply because so long as they failed or refused to act, the Ordinance proved prohibitive against the introduction of new slaves. Several members of this legislature were Southern,—Virginia alone having furnished seven. Some of them were then yet slaveholders;¹⁵⁴ all of them were “intelligent, substantial men”;¹⁵⁵ some of them were graduates of the best schools then in America; and they were not “the mountaineers, the men of the foothills, and uplands who lived in what were called the backwater counties,” as we might be led to believe from what Mr. Roosevelt says in speaking generally of the Southern immigration of the Northwest States.¹⁵⁶ But “a majority of the members of this legislature” were Northern men.¹⁵⁷ When the first petition from the Virginia ex-soldiers came before them, that body *unanimously* declined to entertain the prayer. They said the prayer of the petition was incompatible with the Ordinance.¹⁵⁸ This alone rather looks as though they regarded the Ordinance as at least unchangeable by a Territorial legislature. But the fact is, as I shall show more fully hereafter, this assembly almost entirely repre-

¹⁵³Annals of Congress, 1 Cong., v. 2, 2300; Pub. Laws of the U. S. (Little, Brown & Co., '55), 598.

¹⁵⁴Dunn, Indiana, 290.

¹⁵⁵Burnet, Notes, 289.

¹⁵⁶Thos. H. Benton, 2, 3.

¹⁵⁷Dunn, Indiana, 289.

¹⁵⁸St. Clair Papers, v. 2, 448, n.

sented the Ohio section, and it became a question as to whether slavery would not keep more settlers away from than it would bring into the Territory. So on considering the first petition they concluded that "whatever its immediate advantages it would ultimately retard the settlement and check the prosperity of the Territory, by making labor less reputable, and creating feelings and habits unfriendly to the simplicity and industry they desired to encourage and perpetuate."¹⁶⁹ But when in November of the same year the second petition came from the same men, this time asking for slavery under reasonable restrictions, and doubtless in view of the fact that a large majority of the French west of the Miami at this time "favored the introduction of slaves,"¹⁷⁰ and also a large New England element in Ross county;¹⁷¹ this legislature, with its Northern majority, found in the increase of immigration thus seeking to enter their borders, such a consideration as induced them to change their first position. They showed plainly that they did not regard the prohibition of the Ordinance as forever insurmountable. They appointed a committee and *directed* them—not to inquire into the advisability of slavery—but to prepare a bill "declaring the admission of persons of color by indenture"—which meant nothing less than the most complete servitude. This was done late in the session, and the committee did not get this proposed bill before the assembly before adjournment; yet, as Dunn remarks, "the appointment of this committee indicates a willingness on the part of the legislature to permit the introduction of negroes in a servile condition until some other consideration intervened."¹⁷²

This brings us to the first division of the Territory. It will be necessary to follow the action of each division after it became distinct from the mother territory.

Leaving for the present the Ohio part, which retained the name of Northwest Territory until it became a State, let us follow the section to the west, after the division, called the Indiana Territory.

The severance of the Ohio section left the French largely in the majority in the Indiana Territory. Very soon after the Territorial division this element again petitioned Congress praying for the re-

¹⁶⁹Burnet, Notes, 307.

¹⁷⁰Dunn, Indiana, 291.

¹⁷¹St. Clair Papers, v. 2, 588; Dunn, Indiana, 292.

¹⁷²Indiana, 293.

moval of the prohibition against bringing new slaves to their country, and that the children born in the Territory of such slaves should serve for a term of years before attaining their freedom. "This petition had 270 signers, chiefly French. Of the more prominent English and American signers the majority were Northern Federalists."¹⁷³ It was presented to the Senate only, January 23, 1807, was immediately tabled, and received no further notice.

This failure caused the petitioners to call upon Harrison, of Virginia, their governor, just as they had in the first instance petitioned Congress through St. Clair, of Massachusetts, to seek redress for them. Harrison called a convention of delegates from the several sections of his Territory. When they met at Vincennes in December, 1802, it was found that not all of them favored the indenture of new slaves,¹⁷⁴ but a majority of them did. The opposition came from those delegates who were Southern men. Like their associates, they "ranked among the most intelligent and public-spirited men in the Territory."¹⁷⁵ Cooley says the people of Indiana Territory invited the early attention of Governor Harrison to their "inability under the Ordinance to acquire and hold slaves," and then adds: "many of them had come from the slave-holding States and were accustomed to slave labor; and it seemed to them a hardship that they should be deprived of it."¹⁷⁶ This is liable to make a wrong impression; the Southern emigration generally were less behind this convention than the Northern, and the French element more than either. In the convention itself the New England and foreign born delegates were in the majority, while those Southern delegates who favored slavery were about, if not entirely, negatived by the anti-slavery Southern delegates. This left the Southern influence of the convention practically a nullity. Among their various requests in the petition which the majority prepared, the one which concerns us here is that in which they asked that the slave prohibition contained in the Ordinance "may be suspended for the Term of Ten Years and then be again in force."¹⁷⁷ What were the grounds assigned for this request? They set out that the Ordi-

¹⁷³Dunn, Indiana, 298-9.

¹⁷⁴Dunn, Indiana, 304.

¹⁷⁵Ib., 303.

¹⁷⁶Hist. of Mich., 134.

¹⁷⁷Dunn, Indiana, 306; Am. State Papers: Misc., v. 1, 485.

nance had driven numerous citizens to the Spanish side of the Mississippi,—a movement which had been greatly augmented by the meddlesomeness of an unscrupulous man from New England.¹⁷⁸ The petition was forwarded to Congress in a formal letter by Governor Harrison. February 8, 1803, the House referred it to John Randolph, of Virginia; Griswold, of Connecticut; R. Williams, of North Carolina; Morris, of Vermont, and Hoge, of Pennsylvania. March 2d this committee reported adversely, assigning as their reasons (1) that slave labor was not needed in the new Territory; (2) "that this labor, demonstrably the dearest of any, can only be employed in the cultivation of products . . . not known to that quarter of the United States"; (3) the temporary privation of labor would find ample remuneration at no very distant day.¹⁷⁹ It is important to observe that this Congressional committee had a Northern majority, and that it assigned the economic objection that slave labor was not profitable on Northern soil as their reason for not recommending that it go there. It is well to remember, too, that in the new Territory Northern laborers had almost a monopoly of the labor market, and were unwilling, as well as the non-slave-holding laborers who went from the South, to come in competition with slave labor. Between Congressmen and petitioners it was a question of expediency.¹⁸⁰ The existing politics of the Territory were largely Federalist; the North being the stronghold of the Federal party, it was not to the Federal interest to hold out inducements for Southern men, who were usually non-Federalists, to move to the Territory. The report was read only a day prior to the adjournment of Congress, and so no vote was reached.

December 15, 1803, this petition was referred to a new committee, all of whom were from the South. They reported advising the suspension of the prohibitive clause for ten years, and that it be made legal to introduce slaves "born within the United States," provided the States from which they were removed "did not permit the introduction of slaves from foreign countries." They recommended that the descendants of all such slaves should become free,—males at the age of twenty-five, females at the age of twenty-one. It was alleged

¹⁷⁸St. Clair Papers; Dunn, Indiana, 305.

¹⁷⁹Dunn, Indiana, 308; Hinsdale, Old Northwest, 342; Am. State Papers: Public Lands, v. 1, 146.

¹⁸⁰Dillon, Hist. Indiana, 410-14.

that such a measure would relieve the labor conditions which at that time were embarrassing to many settlers; it would have established gradual emancipation for the descendants of many Southern slaves. So far as its legal effect was concerned, it would not have made a single new slave. But Congress turned a deaf ear, and no vote was ever taken on this report.¹⁸¹ So obnoxious to the people of the Territory did this immovability of Congress become¹⁸² that the public sentiment forced the Governor and Judges, who were then the semi-legislative power, to endeavor to devise a means of overcoming the Ordinance. Under their provision they secured a means of introducing slave laborers under what purported to be "an agreement" under the common law, whereby the servant could be compelled to perform any "agreement" for service in the Territory. Without consent of the master, no one could remunerate such servant, under penalty of "thirty-nine lashes at the public whipping-post."¹⁸³

There was a petition in 1803 from the French in the Illinois country asking Congress to annex them to the newly-acquired Louisiana country, but it added nothing new to their slavery position.¹⁸⁴

In 1805 Michigan (Wayne county) was detached from Indiana. In this year, what was called the second degree of the Indiana Territory having been reached, her first legislature met. The first session of this body was composed of twelve members, seven representatives, and five councilmen (corresponding to the State senate). Of the Southerners, Davis Floyd,, Joseph Beggs, and William Biggs, two Marylanders. Canada and New England furnished the birth-place or former home of the others, one of whom was born abroad. Of the Southerners Davis Foyd, Joseph Beggs, and William Biggs, all of Virginia, were opposed to the introduction of slavery and in every way were anti-slavery men.¹⁸⁵ Two of these Southern men were able lawyers, and Beggs was one of the brothers whom Dunn has pronounced "men of great strength, of great heart, and of great brain."¹⁸⁶ Our present concern is to see the attitude of this body

¹⁸¹Am. State Papers: Misc., v. 1, 387.

¹⁸²Dunn, Indiana, 312.

¹⁸³Dunn, Indiana, 315.

¹⁸⁴Dunn, Indiana, 317.

¹⁸⁵Dunn, Indiana, 337, 356, 367.

¹⁸⁶Indiana, 356.

See correction on inside front cover.

towards slavery and the prohibition in the Ordinance. They passed the famous law for "indenturing negroes," which provided that slaves over fifteen years old might be brought to the Territory; if such slaves agreed to remain, they might be held in servitude for life in no way differing from slaves in the several Southern States. If they refused to be "indentured," they could be forcibly returned to where slavery was unquestioned as to its legality. Some formalities as to registration were prescribed which in no way affected the servant's status. This made a complete servitude. It legalized the introduction of new slaves, making only the formal matter of registration and a pretense of the negroes' consent a prerequisite. With the existing slaves it was a question of service in the new home or incur the master's displeasure and continue in the South. Both the Territorial and afterward the State courts of Illinois and Indiana recognized its validity. Some of the cases, notably one in 1836, laid stress upon the point that "the indenture must have been in conformity with the Territorial law." "It was also proceeded under as existing law in 1844."¹⁸⁷ It was never questioned by Congress. Slaves were held in Indiana and Illinois for many years after each had become States. Children of these indentured slaves were being held in Illinois at the time of the ratification of her constitution in 1848. Hinsdale puts the date at 1846 or 1847, and says some were found in bondage in Michigan even later.¹⁸⁸ Dunn says, "This act at the time was satisfactory to a majority of the people."¹⁸⁹

In those early days roads were few; many settlements were hundreds of miles from the place where indentured servants must be registered, and so the citizens and some of the legislators desired Congress to remove the Ordinance restraint, which would have made the formalities prescribed by the Territorial authority unnecessary. Accordingly a petition was forwarded to Congress, signed by part of the legislature. It had seven names—two of them Southern men, three Northern men, and one born abroad who had come to Indiana by way of the North.¹⁹⁰ Local questions concerning the division of the Territory had arisen; Illinois desired separation because it was insisted that there could be no "harmony, of political

¹⁸⁷Dunn, *Indiana*, 335, and the cases there cited.

¹⁸⁸Old Northwest, 341; Edward's *Hist. of Ill.*; Campbell's *Pol. Hist. Mich.*, 246.

¹⁸⁹*Indiana*, 330.

¹⁹⁰*Am. State Papers: Misc.*, v. 1, 485.

interests between the two sections." A strong petition from the Illinois people, having 350 signers, some of whom had overcome their antipathy to slavery in their desire for division, was forwarded to Congress. An additional memorial was presented to the House of Representatives January 17, 1806. A committee representing the several townships, most of them opposed to General Harrison's administration, met, denounced the indenture law, and prepared to memorialize Congress to interfere; but when they remembered that the "masses were in favor of the indenture of slavery" they changed their front and "substituted a fervent appeal for either a conditional or an absolute revocation of the sixth" article of the Ordinance.¹⁹¹ All these petitions, together with prior petitions and reports thereon, including the petition of the Vincennes convention of 1802, in the House of Representatives were referred to a new committee, of which Garnett, of Virginia, was chairman. He had associated with him three Northerners, two other Southern men, and Park, the Indiana representative. Park was a young lawyer who had gone from his native home in New Jersey to the Territory in 1801.¹⁹² This gave the North a majority of the committee. They reported in favor of a suspension for ten years, legalizing during that time the introduction of slaves born within the United States.¹⁹³ No vote was reached upon this report, and concerning these petitions there was no further Congressional action.

Popular clamors, some for Statehood, others for division, now bore down upon the legislature from every quarter of the Territory. So when that body met in 1806 they passed a unanimous resolution asking Congress for a suspension of the prohibition.¹⁹⁴ And not this only; they further tightened the indenture bonds. Some question had arisen as to whether indentured slaves could be sold as property under execution. This legislature declared such slaves to be property subject to execution and sale. More than this: they enacted a law forbidding slaves to be as much as ten miles from the master's home *without* his pass; if so found, a justice of the peace, before whom any one could take the delinquent, could order him punished "by not more than twenty-five lashes." It was further

¹⁹¹Dunn, Indiana, 344.

¹⁹²Dunn, Indiana, 322.

¹⁹³Am. State Papers: Misc., v. 1, 450.

¹⁹⁴Am. State Papers: Misc., v. 1, 467.

provided that if "a slave went upon the plantation of a person other than his master, such person might punish the offender with ten lashes."¹⁰⁶ Yet these laws were passed by a body whose Council had but one Southern member, and whose Northern majority could have effectually barred any law. In common with similar laws in the older North, as I have elsewhere shown, they show that the Southern people were not peculiar in the restrictive laws which regulated the movements of their slaves. The more numerous the slave body and the greater the outside influence as a disturbing power, the more rigid the restraining laws of necessity became.

This last petition was referred by the lower House of Congress to a committee composed of four Northern and three Southern men. This Northern majority, representing New Jersey, Massachusetts, and Pennsylvania, reported favoring removing all prohibition for a period of ten years. But upon this report no vote or other action was ever had.¹⁰⁸

Throughout all this time in the Territory there was even greater Northern pro-slavery coöperation than that given from the South. Many Northern citizens, since they had already come in contact with slavery in the new home, advocated its further introduction. Did they find the institution a source of revenue? Did they hope to perpetuate slavery? Let the history they made answer. In the petition, which is practically representative of the others, received by the United States Senate January 21, 1807, we find the petitioners anxious for Statehood; they had not had the opportunity to attract emigrants which we shall see Ohio had enjoyed. The existing slavery, little of which had tainted the Ohio section, was being protected; whatever of social-labor odium there was, was already in their midst. They thought that if all restrictions were removed more white settlers would join them; and thus aid, they set forth, the sooner to secure those "political rights which distinguish the Americans from the citizens and subjects of other Governments." They frankly said to Congress that in their country slavery was an economic failure—which is now admitted to have been true—and they gave the correct reasons, saying that "from the situation, soil, climate, and products of the Territory it is not be-

¹⁰⁶Dunn, Indiana, 349.

¹⁰⁸Ib., 354.

lieved that the number of slaves would ever bear such proportion to the white population as to endanger the internal peace and prosperity of the country."¹⁷

In the petition of the House of Representatives and Legislative Council, which did not reach Congress until November 13, 1807, the legislature called attention to the action of the Vincennes convention, the Territorial slavery laws already in force, and the several petitions previously before Congress, and said that "as the citizens of the Territory decidedly favor the toleration of slavery, the Legislative Council and the House of Representatives consider it incumbent on them briefly to state, on behalf of themselves and their constituents, the reasons which have influenced them in favor of the measure" providing for removing the prohibition. They then call attention to the fact that this request for removal of all restrictions is "not a proposition of liberty or slavery. Slavery now exists in the United States," they continue, "and in this Territory. It was the crime of England, . . . and now becomes a question, merely of policy, in what way the slaves are to be disposed of that they may be least dangerous to the community, most useful to their proprietors, and by which their situation may be most ameliorated." Then they set out that on January 1st, then next following, the Federal law prohibiting the importation of new slaves would go into effect, and add, "Hence, it is evident the proposed toleration will not increase the number in the United States." This was an entirely logical and legitimate reasoning. No one then conjectured that New England would defy the national prohibitive import laws for fifty years. The petitioners called attention to the crowded condition of the slave States, and then reaffirmed their immunity from danger of overcrowding or of a continuance of long slavery in their section, "owing to the situation of the Territory, its climate and products." In proof of their contention, they cite Kentucky and Tennessee. How truly they argued the after history of each proves. The larger areas of both States proved unadapted to slave labor even down to the Civil War. They might have added to their proof the northwestern part of Virginia,—a large area where slavery had been legal for more than a hundred years,—which was so unsuited to slave labor that it became the unconstitutional State

¹⁷Am. State Papers: Misc., v., 1, 467.

of West Virginia as a compliment to what its situation, climate, soil, and products had done for it. Hence, it was argued that some additional settlers would be induced to come if encumbering formalities were removed, the Territory would sooner become a State, and the few slaves brought in by the Southern emigrants would be placed in a position either to become free themselves or to transmit that privilege to their children.

Accompanying this resolution we now have under review, was a resolution and prayer by a "numerous meeting of the citizens of Clark county . . . (agreeably to notice previously given)," which had met October 10, 1807. This gathering expressed the desire that "Congress will suspend any legislative act on this subject until we shall, by the Constitution, be admitted into the Union and have a right to adopt such a Constitution in this respect, as may comport with the wishes of a majority of the citizens." "As to the interests of the Territory, a variety of opinions exist," they also declare; and while stating their opposition to holding slaves, without expressing an opinion as to whether slavery would help or retard Territorial growth, they simply pray Congress to leave the matter where it is "until the constitutional number of citizens of this Territory shall exercise that right" of final decision in forming their constitutions.¹⁹⁸ This was the true doctrine of the Constitution, that "the power of forming Government for and the regulation of the internal concerns" be left to each State—using the words of the Virginia Colonial Legislature when instructing her delegates in 1775 to the Continental Congress.¹⁹⁹ This doctrine and this prayer came from the opponents to the admission of slaves. It came from a gathering composed of immigrants from both North and South; it was a declaration that Northern settlers opposed to slavery believed that the question was one which the majority of the *bona fide* citizens should settle; and not that they should do so only, but this declaration by a representative gathering is additional evidence that the vast majority of citizens in the Northwest believed that the Ordinance of 1787, construed under the national Constitution, guaranteed to each Territory or State the right to regulate, unfettered by national or other outside influence, the domestic institution

¹⁹⁸Am. State Papers: Misc., v. 1, 486.

¹⁹⁹Am. Archives, 4th series, v. 6, 1524.

of slavery. That Congress actually allowed this to be done, "thus setting an example for the government of all future territories," let me briefly show.

January, 1808, before the House of Representatives, and November, 1807, in the Senate, petitions and memorials called attention to the indenture law, and asked Congress to nullify it.²⁰⁰ Mr. Dunn points out that it was not neglect that Congress failed to take any notice of the law or to declare it void, and that unquestionably Congress meant to leave the matter to be settled by the people at the ballot—a doctrine which, in the Kansas-Nebraska fight in 1854, came to be known as "squatter sovereignty."

When, September, 1808, the Territorial legislature again met, fifteen slavery petitions from all parts of the Territory hurriedly came before the legislative body. "Of these eleven were against any legislative action for the admission of slavery"; and of all the signers, there was a majority of six hundred against slavery. Now, mark the change in the legislature! Slavery had been tried; the people are reversed in their sentiments. Let us look for the causes.

In the Territorial House Representative Johnson, a Virginian, an able lawyer, and up to this time a strong advocate of slavery, and one of the men who helped to enact the indenture law, as chairman of a select committee presented to the House a report, which Dunn says "is entitled to rank among the ablest, if not the ablest, State paper ever produced in Indiana."²⁰¹ It declares that the "most flagrant abuse" was made of the indenture law, and that the slaves held under it were so completely subjugated that "the condition of these unfortunate persons is not only involuntarily servitude, but downright slavery." Then follows the important feature: The report declares that free labor produced a condition of superior agriculture; built manufactories, roads, bridges, etc., far in advance of anything that could be produced under slave labor. The report was adopted without opposition in the House. A bill repealing the indenture law was passed, signed, and sent to the Council. Of the members of the Council then in attendance there were but three—Jones, Bond, and Fisher—two from the North and one, Bond, from the South. Here was a Northern majority and in its

²⁰⁰Dunn, Indiana, 362-3.

²⁰¹Indiana, 371.

hands an opportunity to destroy the local slavery law—a chance to restore to its full force the Ordinance. What did they do? It was expected that Illinois would soon be severed from Indiana, and in its movement westward the anti-slavery sentiment had not yet captured all the Illinois French and some Americans. These three men were looking to the Illinois country for future political preferment, and “they had too much regard for their political future in Illinois to repeal the indenture law; and so it was saved as a rich legacy to our sister State by these three men,” says Indiana’s impartial historian.²⁰²

The report adopted by the House, based upon a sudden change of popular sentiment, also assigns a political reason for all future suppression of slavery. It says they must look to New England for the greater number of immigrants; and political antipathy to the South thus early manifests itself. It was insisted that slave-holders had ample territory in Missouri and to the south, and it was argued that to admit new slaves to the Northwest would be an *unequal distribution* of territory; and by the admission of slaves to Indiana, they argue, “the comparative importance of the Middle and Eastern States, the real strength of the Union, is greatly reduced.” For this political reason they insist that their own pro-slavery law should be repealed, and that “it is inexpedient to petition Congress for a modification of that part of the Ordinance relative to slavery.”²⁰³ When it was thought that slavery would promote immigration and relieve the labor market, these same people introduced slaves under a legal, valid local law—completely ignoring the Congressional Ordinance. When it was demonstrated that they had nothing to lose, when slavery had been tried and proven unadapted to the country, a reversal of sentiment quickly follows. As the Northwest begins to come under the influence of New England political leaders the Ordinance becomes a useful political scapegoat. The growing feeling of a oneness with New England as against the South is more forcibly seen when we remember that they used almost indentially the same language as that of John Quincy Adams, of Massachusetts, when, in opposing the purchase of Louisiana, he said, “One inevitable consequence of the annexation

²⁰²Dunn, Indiana, 376.

²⁰³Ib., 374.

would be to diminish the relative weight and influence of the Northern section.²⁹⁴

The third General Assembly of Indiana contained but four pro-slavery men. They met in 1810 and immediately repealed the indenture law, and restored the force of the Ordinance of 1787. This, of course, did not affect the status of slaves introduced while the law was in force.

Let me close this all-too-brief examination of slavery in Indiana, in the words of J. P. Dunn, secretary of the Indiana Historical Society, writing in *American Commonwealth Series*, edited by Horace E. Schudder, of Harvard University: "We do not go beyond the bounds of our State to give praise for the final solution of our local slavery question, for Congress put the solution upon the men of Indiana, and they worked it out on Indiana soil. For the privilege of solving it, under the Ordinance, without the interference of Congress, our thanks go abroad, but to no section."²⁹⁵

Turning now to Illinois. Before the repeal of the indenture law the Illinois country had been erected into a separate Territory, and hence it was unaffected by the repeal. As we have seen, in the earlier days slavery was much more popular in the Illinois country and continued to be for a longer period of time than in Indiana. But in the end, with her slavery proved of no more economic value, and hence had increased slowly. In 1820, when the old indenture law was yet in force there, Illinois had only 917 slaves.²⁹⁶

In 1822, Hinsdale and other historians tell us, there were practically no politics in Illinois, and "elections turned largely on local questions and personal preferences."²⁹⁷ In the gubernatorial race the pro-slavery men had 5,302 votes against 3,332 of all others. But by 1824, after a bitter and exciting campaign, in which the chief question was a proposition to strengthen the old indenture law passed while this section was a part of Indiana, and to make the introduction of new slaves constitutional, out of 11,772 votes, the pro-slavery men had only 4,950 against 6,322.²⁹⁸ Slavery in Illinois

²⁹⁴ Sparks, *Expansion of the Am. People*, 201, n.

²⁹⁵ Indiana, 444.

²⁹⁶ Dunn, *Indiana*, 406.

²⁹⁷ Hinsdale *Old Northwest*, 350.

²⁹⁸ Hinsdale, *Old Northwest*, 352.

had proven an economic failure, and by 1830 she had only 747 slaves. In proportion as her slave labor surrendered to improved methods and intelligent competition, her anti-slavery sentiment continued to increase, and by 1848 her new constitution put an end to negro slavery within her State jurisdiction. For forty-three years—almost half a century—the slave provision in the Ordinance of 1787 had been void as to this part of the Northwest, and a complete form of slavery was legal,—a slavery which differed in no essential from that in any Southern State, except nominally its heredity was limited.

Whatever of restriction the Ordinance applied to any one State formed from the Northwest it applied to each and all—their absolute equality with reference to each other is indisputable. Since the Ordinance itself provided for changes and alterations of itself mutually made, and also for passing the Northwest States under the full protection of whatever legal form of government should succeed the Confederation (for at the time of the enactment of the Ordinance it was unmistakably plain that the Confederation was no more than temporary), then whatever position or exercise of jurisdiction the States took with reference to any question, such as the regulation of domestic and local slavery, if Congress permitted unquestioned this exercise of jurisdiction, there was a mutual alteration even if the Ordinance had included slavery under the unlimited “forever,” because immediately after the expression, “forever remain unalterable,” it said, “unless by common consent.”

Under the Constitution Congress and the Northwest Territory and States by their solemn acts mutually construed the Ordinance binding as to slavery no longer than any political division took upon itself the responsibility of exercising jurisdiction over that question. If the Ordinance forbade slavery jurisdiction to the Northwest States, as generally claimed, then it forbade all kinds and degrees of negro slavery; hence, any local law whatever, having the sanction of Congress, which made a slavery in any form, no matter if it purported to be a servitude by consent of one already under the duress of recognized bondage, was a mutual alteration of the Ordinance.

By Art. VI. of her constitution in 1818 Illinois confirmed all slavery existing pursuant to and by virtue of the indenture law, thus giving her most solemn sanction to its validity; as to the

future, she repealed the law, and established gradual emancipation for those thereafter born of the slaves then held under the indenture law, thus giving another indubitable proof of its validity and legally binding force. Armed with this constitution, Illinois knocked for admission to the Union "upon an equal footing with the original States in all respects whatsoever"—one condition which the Ordinance had provided for this very occasion. Congress heard her knock, invited her in, carefully inspected the constitution which her people had solemnly ratified, and on December 3, 1818, gave assent to what she had done, thus completing the mutuality, in a resolution in which it was declared that the "Constitution and State government so framed is republican and in conformity to the principles of the articles of compact between the original States and the people and States and territories northwest of the river Ohio"²⁰⁰—the "articles of compact" being none other than those of the Ordinance of 1787. Excepting the question of fugitive slaves, and their importation after a specified time, the Constitution of the Union had left the regulation of slavery with the respective States; Indiana interpreted the Ordinance under the Constitution to guarantee her this right; Congress gave not alone her tacit consent, but at last made, in admitting Illinois, this explicit declaration. Congress thus explicitly declared the local slave laws of Illinois, which created new slavery while protecting the original, actually to be in *conformity* to the articles of compact as contained in the Ordinance, and unquestionably in full accord with the Constitution.

Yet in the face of the constant decrease of pro-slavery sentiment, and with full knowledge of *their local* control of this domestic institution, New Englanders had begun to intrude upon the South, and early in the first part of the last century settlers from New England then living in Illinois opened an "underground route" and "began to assist slaves from the South into Canada."²⁰¹

Neither the Ordinance of 1787, the North, the South, nor Congress saved Indiana or Illinois from slavery. Their anti-slavery sentiment was a product of the native soil; a majority of the peo-

²⁰⁰U. S. Ch. and Cons., 445, 446, 449.

²⁰¹Sparks, Expansion of the Am. People, 355-6.

ple at last found no profit in slave labor; nature for them, as for the older North, solved the slave problem. The same inexorable natural law, working in harmony with man's economic nature, which drove slavery from these two portions of the original Northwest Territory, had, for reasons now to be indicated, even earlier operated similarly in the detached portions: Ohio and Michigan.

VI.

THE NEGRO AND OHIO—ORDINANCE OF 1787.

ECONOMIC CONDITIONS REGULATING SLAVERY IN OHIO AND MISSOURI.

The history of the slave question in Ohio is most fruitful as a source from which to interpret the ante-bellum Northern and Southern slavery positions.

Since it is claimed that to the Ohio Company, a body of New Englanders in search of special favors, we are indebted for the request for slave-prohibition in the Ordinance of 1787, at this place it will be well to examine a little more fully the causes which led to this famous proviso or so-called compact.²²¹

Few things have been more overestimated as to effect than this the sixth article in the act of Congress which formulated a Territorial government for the Northwest, known to history as the Ordinance of the 13th of July, 1787. It has been accorded a place in slave history, and consequently one of no little importance in the history of our country, which it does not deserve. The motives which prompted its attempted regulation of slavery have been variously, and perhaps with as little accuracy, estimated. Black in his history of Ohio insists that Jefferson and Virginia had economic and selfish motives for the anti-slavery provisions in the various measures urged with reference to the Northwest; and, hence, that the South was similarly actuated in supporting the Ordinance of 1787. Whatever these reasons were, there was certainly no partisan, *sectional*, political motive. The Ordinance which Jefferson proposed in 1784 was meant to prohibit slavery in all territory north of thirty-first parallel.²²² Of the Southern States this territory is now covered by Alabama, Tennessee, Mississippi, and Ken-

²²¹For a clear proof of the Southern authorship of the Ordinance, see Benton's *Thirty Years' View*, Vol. I., 134 *et seq.*

²²²Schouler, *History of the U. S.*, Vol. I., 112.

tucky. Mr. Roosevelt takes pretty much the same view of the Ordinance of 1787 as that advanced by Mr. Black. Mr. Roosevelt says of the Ordinance that "it was in its result a deadly stroke against the traffic in and ownership of human beings, and the blow was dealt by Southern men, to whom all honor should ever be given."²¹³ I have already discussed the extent of the "blow." He further says, "The prohibition was brought about by the Ohio Company."²¹⁴ His theory is that Congress wanted to sell these new lands, which is correct, and that the Company who wanted to buy "were determined to keep slavery" out of the Territory. But why? All through his writings he admits that there was "at that time no opposition from consciousness of any wrong in slave-holding."²¹⁵ Whatever Jefferson's and the South's reason for this prohibition, to my mind that of New England, granting that she was behind the move, is clear. This Ohio Company were New England men; at the head was General Rufus Putnam, of Revolutionary fame, and cousin of Israel Putnam. They had organized to speculate in land.²¹⁶ They were Federalists in politics, and men who had seen that negro slavery at home was not profitable. They were not slave-holders, nor were they capitalists. Mr. Roosevelt says of them, "The new settlers were almost all soldiers of the Revolutionary armies; they were hard-working, orderly men. . . ."²¹⁷ Hence, slavery or no slavery became a business matter with these early settlers from the older North. They were men who were after land, says Mr. Roosevelt; Virginia had military land reservations in the same neighborhood; her Revolutionary soldiers, who were entitled to these lands, were after land, too;²¹⁸ if slavery could be kept out of the new territory during its early settlement and during its initial territorial days, New Englanders would be able to control the matter when they came to legislate for themselves, and Southern opposition would be reduced to a minimum. This was exactly what did occur. Now, if Virginia and Southern emigration had been

²¹³The Winning of the West, Vol. III., 258.

²¹⁴Ib., 262.

²¹⁵Smith in Free Soil and Liberty Parties, and all modern writers agree in this particular.

²¹⁶Smith, St. Clair Papers, Vol. I., 124.

²¹⁷The Winning of the West, Vol. III., 266.

²¹⁸King, History of Ohio.

prospective buyers, the Ohio Company *might* have taken another view. That the bulk of the actual and possible Southern emigration at the time to the Northwest was not a buying people, so far as Cutler and the Ohio Company could see, is shown from the fact that it was the ex-soldiers who were *entitled* to lands, who endeavored to have the prohibitive clause abrogated. North of the Ohio were thousands of acres of "bounty lands" due to Southern soldiers who might enter upon them. Many of these soldiers owned slaves, and naturally desired to carry them to their new homes. The New Englanders themselves were "hard-working men"; they knew from experience that a man who did menial labor in a slave community soon came to be regarded as one of the "poor whites"; so they determined to avoid competition in the labor market, and to guard against this social odium. Hence, these early New England land sharks found it advisable to lobby Congress, and the astute Doctor Cutler, of Massachusetts, was engaged for this purpose. As a result, "a fortnight after the passage of the Ordinance," Congress nominally sold to the Ohio Company, as the new land company called themselves, one and one-half million acres of land north of the Ohio.²¹⁹ Dr. Cutler, the Ohio Company's agent and lobbyist for favorable territorial government, says in his diary, "By this ordinance we obtained the grant of near five million of acres of land, amounting to three million and a half of dollars. One million and a half for the Ohio Company and the remainder for a private speculation."²²⁰ Payment was to be made in soldier's certificates,²²¹ which were practically worthless.

So step by step each move of the Northern leaders for anti-slavery regulations may be traced to the most mercenary motives, while side by side with these she developed an anti-slavery fanaticism against Southern slavery until self-protection drove Southern men to suspend all emancipation hopes, and enter a vigorous fight against the insane methods of these misled and unduly excited pseudo-philanthropists.

I cannot resist the temptation to digress here to observe that Mr. Rhodes remarked that had Jefferson lived in 1860 he would have

²¹⁹Roosevelt, *The Winning of the West*, Vol. III., 263.

²²⁰Smith, *St. Clair Papers*, Vol. I., 130.

²²¹Justin Winsor, *The Western Movement*, 291.

been an abolitionist, is entirely unwarranted. Coming from so high an authority, the statement is the more unfortunate. No man was more loyal to the Constitution than Thomas Jefferson. That Jefferson would for one moment have sanctioned its wilful disregard as did the abolitionists in 1860, is straining Jefferson's doctrine beyond justification to get a good man seemingly on the side of wrong. The slavery question was one of *how*, of whether the Federal Government or the State should decide the negro's destiny. Jefferson was always a State abolitionist, and at no time did he ever favor the barbarous practices so generally prosecuted or countenanced by the abolitionists of 1860; he never favored impoverishing the master. The abolitionists of 1860, nor their predecessors, proposed any remuneration for the master's loss, nor any solution for the after-conditions of emancipation which were inevitable in dense slave communities. Jefferson held that emancipated slaves and the former masters could not peaceably cohabit in the same political unit. He was correct, especially with reference to the slave as he knew him. Even with nearly one hundred years of civilization since Jefferson's day, the negro in the South is a problem. The abolitionists of and prior to 1860 opposed colonization. Jefferson taught gradual emancipation, and he held that "emancipation and deportation" (colonization) should go hand in hand.²²²

To return to slavery and its treatment by that part of the Northwest, which, as we saw, had been left after the first division of the Territory in May, 1800. From the Ohio river to Fort Recovery, now a little east of the western boundary of the present State of Ohio, north to Canada a line was run, and to the east of this the Territory still retained the name Northwest until it became the State of Ohio in 1803. Let me hurriedly outline its slavery attitude from the time we left it in 1800 with General Arthur St. Clair as governor. The members of the general assembly for the original Northwest Territory, which had met in 1799, nearly all lived in that part east of the division line of 1800. This body, with one new member to fill the place of the one who became a citizen of Indiana, met again, this time as the representative of the Ohio part (then yet called the Northwest Territory) on November 24,

²²²Randall (New York), *Life of Jefferson*, Vol. I., 398; Morse's *Jefferson*, 52.

1801. Being composed of the same men, there was no change in their attitude towards slavery. However, there is an important fact which must not be overlooked. All the time this legislature had voiced the sentiment of the eastern, afterward the Ohio section of the Northwest Territory. Burnet unquestionably speaks of those who were then in what became Ohio, when he says that they were so solidly opposed to slavery. The more westernly and northerly settlers, as I have pointed out, were from the Spanish and French days slave-holders. So there was really no change as to this matter in the western part of the Territory after the division and after it became the Indiana Territory, with Harrison as governor.

When Ohio came to her first constitutional convention there was not that unanimity concerning slavery which had prevailed in the legislature. One faction of this convention determined to secure a clause modifying the slavery provision, and so numerous was this element that they came within one vote of succeeding.²²³ This pro-slavery faction could not have been of Southern extraction since there were fewer Southern men among the delegates than there were in the legislature which showed such negro antagonism.²²⁴ When it was discovered that the negro did not meet popular approval as a useful and productive economic laborer, this same convention showed no disposition to treat him with any moral consideration whatever. The sentiment which soon drove the free negro by cruel expulsion from the State came prominently to the surface in this body met to lay the foundation of a State which had the "encouragement of religion" incorporated side by side with the slavery article in its Territorial organic act. Cutler, a Christian minister though he was, had procured what he regarded as a happy government for *white* New Englanders. The negro in Ohio could not be used to profit; he was not wanted; no charity was to be his unless that charity could be made a tool to filch cash from the pocket of a Southern white man or gain strength for Northern political economic demands. This convention, composed largely of New Englanders, anticipated by fifty years the Dred Scott opinion; they decided that the negro was not a citizen; and Judge Burnet tells

²²³Black, *The Story of Ohio*, 157.

²²⁴Burnet, *Notes*, 362.

us that it was understood by this body of delegates that "people of color were not represented"; and that since "free whites alone" were represented "people of color were not considered as parties" to the government then being established, and "should have no part in its administration."²²⁵

After this convention anti-slavery sentiment gained rapid headway. Black and others tell us that soon Ohio became solidly opposed to slavery, "for even the element which the State had drawn from the South by no means arrayed themselves against emancipation."²²⁶ So, with King, we readily agree that the State solidly withstood every attempt to qualify or suspend the anti-slavery article in the Ordinance organizing the Territorial government.²²⁷

Let us now briefly inquire into the *causes* which led to the position on slavery thus taken by the Ohio people. Why was it that her early settlers, during her Northwest Territorial period, steadily opposed slavery, while the settlers in the French and other neighborhoods were at first favorable to a continuance of slavery? To my mind the answer is by no means difficult. In her pioneer days the Ohio part of the Northwest was without markets. Burnet says this was the case as late as 1802.²²⁸ Her soil was rich, but in its latitude and primitive condition entirely unsuited to slave labor. Doyle, Fellow in All Souls College, Oxford, England, writing in 1882, says, "The utility of a slave is that of a machine. When once he has been trained to any special kind of industry, no attempt to enlarge his sphere of activity can be attended with profit. The time given to the new acquisition is so much waste, and his mental incapacity and absence of any moral interest in his work almost necessarily limit him to a single task. Thus, as we have seen, the many attempts to develop various forms of production in the Southern colonies all failed. Maryland and Virginia grew only tobacco, South Carolina grew mainly rice."²²⁹ Under existing conditions the products of slave labor could not be grown in the Ohio section of the Northwest. The white settlers frequently struggled for their own sustenance. "Food," King tells us, "rather than shelter, was

²²⁵Notes, 355.

²²⁶Black, *The Story of Ohio*, 214.

²²⁷King, *History of Ohio*, 364.

²²⁸Notes, 329.

²²⁹English Colonies in America, 387-8.

the severest want of the pioneer."²²⁰ Bread and salt were scarcest of all.²²¹ When the products of the field and wild game supplied these primary wants the surplus production, long after the anti-slavery sentiment prevailed, was dead waste. There were no markets. In that portion of the Northwest Territory, where we have seen that slavery survived longest, the proximity of Canada and the better transportation facilities gave an outlet for some of the surplus production. These slaveholders in the Detroit (now in Michigan) and others of the western and northern settlements of the Northwest were farmers. They had not come unaided and without money to struggle with the virgin wilds. As Moore tells us, they had been aided by "liberal subsidies in farm implements."²²² They had excellent servants, we are told; they used antiquated methods of agriculture, yet they obtained a big price for their products.²²³ No doubt the immense fur trade carried on in this region had much to do with the demand for farm products. Nor was this all that put Ohio at a disadvantage. "Besides their land-locked isolation, the pioneers, in clearing the forest and in turning up the rich mould of their cornfields, encountered a far more destroying adversity in the ague and violent biliary disorders, with which the soil was infected."²²⁴ So both climate and market conditions made the slave a burden. Very many Southerners from Virginia, Kentucky, Maryland, or now and then to the further south, removed with their negroes to the Northwest Territory. The historian Howe tells us that one of the early pioneers sent his son to winter in the Territory with a dozen negroes who were sent from Kentucky, and that it was with difficulty that the negroes were kept from freezing.²²⁵ This shows that even the rude accommodations of the early days made slavery undesirable. Having found them unprofitable at home, or soon so discovering on arriving in the Territory, many of these Southern men manumitted their slaves. Their numbers were increased by slaves who ran away from the South. As a result of both these in the first years of the young State, she found

²²⁰History of Ohio, 298.

²²¹Ib., 299.

²²²Chas. Moore, *The Northwest Under Three Flags*, 82.

²²³Burnet, *Notes*, 282, n. *et seq.*

²²⁴King, *History of Ohio*, 308.

²²⁵Howe, *Century Ed. History of Ohio*, Vol. III., 166.

herself beset by a shiftless, stealing, plundering negro element. Something was necessary to protect the whites. Harsh laws against free negroes were enacted, and "expulsion under these laws was cruelly enforced."²⁵⁶ King and other authorities who speak on this point, say these negroes were without "fitness or capacity to provide for themselves."

Yet with this example in their midst, the abolition element in the North who were crying for unconditional emancipation of the slaves in the Southern States, and who were teaching Southern slaves to demand immediate and unconditional emancipation, found some of their warmest adherents in Ohio. They refused to see that if Ohio's peace, happiness, and the security of her women and children were threatened and endangered by the presence of the comparatively few negroes whom she found within her borders, that the danger in the more densely colored sections throughout the South would have been infinitely more distressing. The Ohio negroes were not unlike other slaves or free negroes throughout the South. They were, as a whole, "without fitness or capacity to provide for themselves." *This was pre-eminently true of the Southern negro at the inception and during the time Northern men abused the Southern slave-owner, and insisted on immediate and unconditional emancipation.* It was in part to prevent the dire calamity from which Ohio shrank that killed the emancipation sentiment which early and for years flourished in the South.

Though he did not profit by the lesson, yet the experience of the uncompromising abolitionist, Gerrit Smith, attested the incapacity, unfitness, and *unwillingness* of the Southern negro to provide for himself. Smith proved the correctness of the slaveholder's contention when he failed to induce the negro to make an effort at self-providence. He offered thousands of acres of farming lands, situated in New York, to any negroes, free or runaway slaves, who would accept and live upon them. John Brown, afterward of Harper's Ferry notoriety, went into the community to assist and teach any who might take advantage of the offer.²⁵⁷ The scheme was a failure; the negro of that day "had neither the fitness nor capacity to provide for himself." Nor was the experiment tried in America

²⁵⁶King, *History of Ohio*, edited by Schudder, 297.

²⁵⁷Frothingham, *Life of Theo. Parker*, 450.

only. In 1787 the English Government settled several hundred ex-American slaves, who had attached themselves to their army during the Revolution, at Sierra Leone, situated on the west coast of Africa. Free negroes and negroes taken from captured slavers, "liberated by the mixed commission courts," had been added until, in 1850, the population was 55,500, one hundred only of whom were whites. Of this experiment J. Smith Homans, corresponding secretary Chamber of Commerce, New York State, in 1858, said, "Great efforts have been made to introduce order and industrial habits among these persons. We are sorry," continues this New York authority, "however, to be obliged to add that these efforts, though prosecuted at an enormous expense of blood and treasure, have been signally unsuccessful."²²⁸

Disregarding these important lessons, the abolitionists plunged boldly into the heart of the South, and declaimed for "immediate and unconditional emancipation in the midst of slave States"; and as I have elsewhere shown, began to scatter seeds of discontent among the slaves themselves. This attack upon the slave States themselves began in the early days of the States formed from the Northwest Territory and spread until, in King's own words, "during the five years preceding 1840 . . . numbers [of slaves] were abducted from the slave States and concealed or smuggled by the 'underground railroad' into Canada. The abolitionists," he adds, "as they were indiscriminately called, had become fanatical and lawless in their delirium of conscience. . . ."²²⁹

The correctness of these conclusions concerning the anti-slavery growth in Ohio and the causes which led to early anti-slavery enactments, is more obvious when we turn to the civil and industrial history of slavery to the west of the Mississippi, which will also help to account for its origin in the Northwest Territory. In the days of its early settlement all the upper portion of the Mississippi valley was called Illinois. We have seen something of the slave legislative history in that portion of it west of Ohio and east of the Mississippi, which was settled by the French in 1699. The slave had gone before the first permanent settlers. La Salle was accompanied by a negro slave when murdered in March, 1687. La Salle

²²⁸Commerce and Commercial Nav. (Harpers, 1858), 1777.

²²⁹History of Ohio, 365.

had built a French fort in Illinois in 1678-'80 for the purpose of carrying on the fur trade, and had been granted "the monopoly of the lake trade."²⁴⁰ Further down the valley, and at Kaskaskia, and at the settlements on the river above where Memphis now is, and at settlements in what is now Missouri, colonies of French, who were the pioneers of that section, were planted about 1720. Most of these emigrants were from Canada. These "many" French families who settled this region were not independent frontiersmen who set out practically unaided to battle with the wilds and to contend with the Indians. Like the early English colonies, they were under a kind of proprietary leadership, and were either planted by private capitalists, who expected returns on the investment, or encouraged and assisted by government officials who expected to extend their empire. The emigrants who first broke the virgin prairies in what is now Missouri were under the lead of Renaud. These pioneers generally devoted themselves to farming.²⁴¹ They had slaves, but these negroes had been "granted to them by Bienville" for the express purpose of cultivating the lands.²⁴² Bienville was a French official, in influence with his government, and with unlimited capital at his disposal. These emigrants had come out at the instance of Sieur Renaud, one of the directors of the company, who was speculating in the new lands. Both he and the several settlers had received liberal grants of land from the French authority, and Carr tells us that these were the first land grants in the present State of Missouri.²⁴³

To the north of these emigrants were the settlements in their Canadian home, to the south was New Orleans, with its market and demand for a variety of products. The Mississippi was utilized for transportation, not alone by these settlers, but by those to the east of the river who had settled along the Illinois river in the present State of Illinois. Like their Southern kinsmen, these found a market down the river; and so all the colonies planted in Illinois, as all this region was then called, grew "steadily in population and prosperity. Besides the fur trade, which [early] extended some

²⁴⁰Carr, *History of Missouri*, 13.

²⁴¹Carr, *Missouri*, 24.

²⁴²*Ib.*

²⁴³*History of Missouri*, 24.

three or four hundred leagues up the Missouri, and the lead mines of the Meremac [to the southwest of the present St. Louis], from which the yield was practically unlimited, the agricultural products of the district began to assume important proportions. From the first arrival of the French in this quarter they had given more or less of their attention to agriculture . . ."²⁴⁴ The main products were wheat and Indian corn, but every year, "in the latter part of December," there were shipped from the several settlements in all this Illinois country "boats loaded with 'flour, corn, bacon, hams, both of bear and hogs, corned pork, and wild beef, myrtle and beeswax, cotton, tallow, leather, tobacco, lead, copper, buffalo wool, venison, poultry, bear's grease, oil, skins, fowls, hides, beer, and wine.'"²⁴⁵ Hence, there was a demand for the products of slave labor. But the slaves were not so much the demand of the settlers as they were the result of a desire on the part of the proprietary or speculative company to make their new lands and new investments produce a return. This Mississippi Company, as it was called, was in control of this region for fourteen years. During this time they sent out seven thousand white colonists, to whom they gave two thousand negro slaves. They surrendered their charter to the King of France in 1731,²⁴⁶ who continued to encourage slavery until November, 1762, when Spain became owner of all the French territory in America. In 1763, at the Treaty of Paris, England got all of the Louisiana territory east of the Mississippi river. As we have seen, the greater number of the early colonies were in what is now Illinois; so this transfer left Spain with but 891 inhabitants in upper Louisiana, and to the west of the Mississippi river. Many of these were in that section now embraced in Missouri. Life with the colonists went pretty much as before. A few families moved to the west of the river and out of English jurisdiction,²⁴⁷ and "by far the greater number" engaged in agriculture. So that the trade with New Orleans continued to increase until in 1787, about the time the Ohio Company was driving its bargain with Congress for the purchase of land in the Northwest Territory,

²⁴⁴Ib., 26.

²⁴⁵Ib., 27.

²⁴⁶Ib., 29.

²⁴⁷Ib., 24.

at one time ten boats arrived in the Illinois country from New Orleans.²⁴⁸ For the times this indicates an immense trade.

The proximity and hostility of the English alarmed Spain for the safety of her American possessions. So, while Congress was nominally selling the lands in the Northwest Territory to New England speculators, Spain was endeavoring to strengthen her Louisiana claims by holding out inducements to the American citizen to settle in her domain. These propositions were especially attractive to many citizens of Kentucky, Tennessee, and Virginia. Just at the time the Southerners found that they could not carry their slaves to the Northwest Territory, Spain began to grant to those who would settle on her territory west of the Mississippi farms of eight hundred acres for about fifty dollars for the entire tract.²⁴⁹ Even this "payment was not necessary to give possession"; and since "there was practically no such thing in the province as taxation,"²⁵⁰ and since religious freedom was granted and other inducements held out, we can readily understand how a slaveholder could afford to move into a rich farming country, and especially one with an established market. So, while the New Englander and his neighbor were buying a home in the wilds of Ohio and struggling with the miasma of her mold, their Southern neighbors were finding upon the rich plains of Missouri homes for the asking, and an established market for the products of their hands or those of their slaves. Twelve settlements, including St. Louis, St. Charles, Little Meadow, New Madrid, St. Genevieve, and others in the Missouri neighborhood in Upper Louisiana for the years 1799, furnish a showing of products which speak much of the market advantages which Southerners found as they moved westward. In that year we find these twelve settlements supplying the market with 85,534 bushels of corn, 88,349 bushels of wheat, 28,667 pounds of tobacco, 170,000 pounds of lead, and 1,754 packages of shaved skins of 100 pounds each, "horned cattle" 7,980, horses 1,763, besides flour and other products. Much trade went to Canada even from this section, especially all the finer furs, because there they brought a better price than in New Orleans.²⁵¹ The new home already had a system of

²⁴⁸Ib., 55.

²⁴⁹Ib., 58.

²⁵⁰Ib.

²⁵¹Am. State Papers: Misc., Vol. I., 383.

easy and indolent slavery of negroes which had been tided over the critical period in the history of the country by lavish expenditure of the fortunes of those who had planted the first colonies, or as in the early English colonies, which had not alone been sanctioned, but which had been encouraged by both France and Spain by supplying slaves to the settlers.

Now, I submit that the history of all the Northwest, *like that of New England*, shows: (1) Each State or Territory settled its own slavery question; (2) slavery is profitable only in primitive or less advanced times and in the use of rude methods, and then only where there is a market for the products of the institution; (3) coöperation by the North in the enactment of the various national slavery laws indicated not a desire to increase slave territory; anti-slavery sentiment from the earliest days on down was all the while—the entire United States considered as a whole—growing. The Northern coöperation with the South indicated a fairness of mind, a keenness of penetration, and a profound understanding of the real drift of the slavery situation, and a wholesome loyalty to the Constitution of the Union; (4) the plea that “slavery is becoming an uneradicable American institution” was a false alarm, started about 1820, and which gathered emptiness of sound in the ratio that slavery was disappearing; and (5) a no less important lesson is that the same causes which drove slavery from New England and all the North were operating steadily in the South, and in due time, *at less cost of life and treasure* than that of the war, would have emancipated every Southern slave. In all new countries agriculture and the most simple of manufacture have been in the vanguard. The *negro* slave was totally unsuited to a higher stage in the industrial world. Northern historians, of whom Channing and Rhodes are eminent representatives, tell us that nothing could have been more ruinous to the financial interests of a country than the system of slavery as it prevailed during the years immediately prior to the Civil War. They are either correct or incorrect. If correct, slavery was killing itself; it was limited by virtue of its own nature. Such writers misunderstand the attendant conditions of Southern slavery; but that it was self-timed and must pass in the very nature of the onward progress from which no part of our world can escape, is attested by the slave history, not alone among English

people, not alone among the Romans, but in all the earth; and that the natural limit was *already* being reached in the South is a correct observation of many writers, and is proven by the history of New England and all the North, where the American people were first forced to abandon the more simple forms of industry.

Mr. Hinsdale, Ph. D., LL. D., of the University of Michigan, strongly anti-slavery in his feelings, thus sums up the slavery conquest in the Northwest:

"In sixty-two years following the adoption of the National Constitution eighteen new States were brought into the American Union—nine free and nine slave States. . . . The creation of the new free and slave States was due to causes far more powerful than state-craft. . . . He who considers all these things, in connection with the fact of Western geography, must see that the expansion of the areas of freedom and of slavery in the United States was due to natural causes, and particularly that the organization and admission of the States, according to programme [one free and one slave], was so much beyond the ken and power of statesmen as the regulation of the tides and eclipses is beyond the power of natural philosophers."²⁸²

²⁸²Old Northwest (Rev. Ed.), 356, 357.

VII.

THE AMERICAN SLAVE TRADE.

One of the pleas—the third under my classification—set forth in opposition to the repeal of the restrictive addendum to the Missouri admission bill, was that it would re-establish and increase the importation of African negroes. To appreciate the true merits of the plea requires a brief examination of the entire slave import trade.

The charge that the South desired to encourage or to carry on the importing of African slaves is unjust. The Southern people were not—never had been—importers of slaves. Of course, there were a few individual exceptions just as in the North there were individual exceptions to the later prevailing slavery sentiment. In the colonial days all the southern colonies would have stopped the importation of slaves had they not been prevented by England. England, at the time the American colonies were under her jurisdiction, was the largest importer of and dealer in African slaves in the world. Her mercantile interests demanded a market, and hence she kept her slavers busy pouring negroes into the southern colonies in America. By the time these colonies had reached a period where they were free to act and able to act, slaves had become so numerous that the Southerner honestly and rightly feared immediate and unconditional emancipation. All was done that wisdom and safety indicated; importations were forbidden and plans for emancipation were inaugurated. On the other hand, Northern citizens gradually became the slave monarchs of the world. England came to see the sin of stealing human beings for slavery, and converted her slavers into sentinels of protection. New Englanders grew bold in the trade. With one hand the North gathered slaves from Africa or elsewhere and with the other she encouraged slave-uprisings, desertions, and made life and personal safety in the South just as insecure as possible; and all the while called loudly for “immediate emancipation in the midst of slave States,” as Mr. Blair, a member of Lincoln’s cabinet, and many others all the years before him frequently declared.

What is the history of the American slave trade? Savagery, barbarism, heathendom,—none furnish so dark, so bloody, so sickening, so blighting a page. The story fills volumes, yet my time and purpose allow me to stop to see the merest outline. Brief as it must be, it will do much to help us to interpret the bitterness with which the professions of Northern interest in the slave *per ipse* were hurled back into the face of those who made them.

The early landing of a cargo of twenty slaves at the English colony of Jamestown, in what is now Virginia, in August, 1619,²³³ generally is said to be the first recorded sale of slaves in the present limits of the United States. It is almost certain, however, that the Norse explorers landed slaves on New England's shores long before the coming of the little Jamestown colony. The Spaniards, too, had owned and sold slaves in other parts of America prior to this date. To the Spaniards we are indebted for the introduction of negro slavery into the United States in 1526.²³⁴ Negro slaves were carried into Alabama in 1559 or 1560.²³⁵ Kansas, I am fully convinced, found negro slaves bearing Coronado's burdens across her plains in 1541-'42, nearly fifty years before the coming of the Dutch Trader to Virginia.²³⁶ The cargo landed at Jamestown was composed in part only of negroes, and their coming was entirely unpremeditated and absolutely unknown to the colonists until the little armored ship had touched the Virginia shores. The vessel belonged to the Dutch, who were then the greatest sea traders of the world. We are told that the Dutchman wanted provisions in exchange for his cargo, "of which the master pleaded his vessel was in dire need."

Much unnecessary emphasis is placed upon the landing of these twenty negro slaves; likewise much untruth is said about this being the beginning of slavery in America. So far as the question of slaveholding by the North or the South is concerned, it is of no practical value. There were only a few days between this event and the landing and buying of slaves in what is now called the North. The

²³³Or a later date, as good authority insists; the distinguished John Marshall says it was in 1621: *History American Colonies* (Philadelphia, 1824), 56.

²³⁴Lowery (1901), *Spanish Settlements in the United States*, 165; Shea, *Nar. and Crit. History U. S.*, 238.

²³⁵Lowery, *Spanish Settlements in United States*, 357.

²³⁶*Ib.*, 329.

Dutch introduced African slaves as soon as they obtained a footing on American soil. This was in what is now the State of New York. The Dutch Manhattan Charter of Liberties and Exemptions in 1629 said, "The Company will use their endeavors to supply the colonists with as many blacks as they conveniently can." There is no doubt that slavery existed in the New England colonies before this pledge to enslave human beings was made. Hence, the introduction of slaves and the beginning of the slave trade had a contemporaneous beginning in the colonies which first settled what we now call the North and the South. This is as literally true as one could find in widely separated sections between which there was no intentional concert. Speaking of the introduction of slavery, Burgess, of Columbia University, New York, notes that it was first legalized by the North, and then he observes that "the impartial historian must place a greater blame on the Northern colony."²⁶⁷ As rapidly as settlers came, the institution of slavery spread until it was fostered by all the North; and, although for some time Georgia withstood slavery, sooner or later the needs of the Southern colonies made African slavery an American institution. From the first and for many years the New England colonies were both slave-owners and slave-traders; but when local ownership became unprofitable, and while yet there was a great profit from the slave trade up to 1860,—the Civil War—the North continued to be America's slave carrier and importer of captured humanity. As early as 1630 the New England ship-owners began an increased activity in the importation of negroes to America; but the increased activity reached not alone the American trade; many of the chief slave ports of the world were supplied by Northern capital and men. The *Desire*, the first American built ship, was built at Marblehead, Mass., in 1636. It at once and for many years engaged in selling negroes to and from the West Indies. Much information is left us in *Winthrop's Journal* concerning her traffic. "In 1635 the whole number of slaves imported into Virginia was but twenty-six," so the historian Spears tells us. In scarce a year after this, this one single Northern ship had enslaved many times that number. As we have seen, the Southern ports in America would have been closed to the slave trade but for the fact that England held them open for the benefit of her

²⁶⁷The Middle Period, 41.

own slavers.²⁸⁸ When finally the hold of England was shaken from America, Virginia and other Southern States forever closed their ports to slave importation. In 1778 "Virginia ordered the emancipation of every slave introduced from abroad."²⁸⁹ On the 17th day of December, 1792, the General Assembly of Virginia declared, "That no persons shall henceforth be slaves within this commonwealth, except such as were so on the 17th day of October," 1785, "and the descendants of the females of them." Section two of the act declared: "Slaves which shall hereafter be brought into this commonwealth, and kept therein one whole year together, or so long at different times as shall amount to one year, shall be free." Section three provided penalties against importing negroes from Africa or elsewhere, and section four provided a test oath for such persons as desired to become *bona fide* residents of the State, requiring them to swear that they carried with them no recently imported negroes, and that they were not resorting to subterfuge of residency in order to sell imported negroes.²⁹⁰ As late as 1841, commenting on a law of Mississippi passed in 1833 prohibiting the importation of slaves, the Supreme Court of the United States said, "It is an absolute and positive prohibition, going into full effect on the 1st day of May, 1833, and making from that time the introduction of slaves for the purpose of sale, a direct violation of the fundamental law of that state."²⁹¹ Again in the same report it is said, "In Mississippi a traffic in slaves existed which the people of that state desired to stop. They declared that it should stop after a certain day." From the lowest to the highest, the courts of Mississippi sustained and enforced that law.

However, slavery had its hold on America—the whole of it in one form or another. Both time and motives of interest were necessary to its destruction. Left to herself, these would have emancipated the South's slaves, which, of course, would have destroyed her interest in the slave trade, without the cost of the war. Nor was the institution peculiarly American. In the colonial period, and for

²⁸⁸Rhodes, U. S., Vol. I., 8; Bancroft, History of the U. S., Vol. II., 550; Hildreth, History of the U. S., Vol. II., 494.

²⁸⁹Bancroft, History U. S., Vol. V., 510.

²⁹⁰Collection of Acts of General Assembly of Virginia, 196; Calendars Home Office Papers, 1770, 1772, p. 600; Parton, Life of Jefferson, 138.

²⁹¹15 Peters, U. S., 456.

many years that followed, it was well-nigh universal.²⁰² It was an institution well-nigh co-existent with man himself. At the time Virginia was struggling with the import question, the truth is that nowhere was the moral right of superiors to enslave inferiors questioned. On this point the Supreme Court of the United States once said, "The African slave trade is a trade which has been authorized and protected by the laws of all commercial nations; it cannot, therefore, be considered as contrary to the laws of nations."²⁰³ All classes everywhere acted from motives of purely financial interests. This is true of our Northern brethren; they had not reached any higher moral status. "Even that law of Massachusetts in 1641, so often quoted to prove that the colonists there were opposed to human slavery, proves, in fact, that voluntary slavery was common. It says, 'There shall never be any bond slavery among us, unless it be lawful captives, taken in just wars or [such] as [shall] willingly sell themselves.'" This is virtually the moral code of slavery in heathendom. It shows that with these colonists slavery was not regarded as dishonorable. Nowhere did the right or wrong of the matter dictate the action. "It is said to be a tradition in an honorable Massachusetts family that an ancestor, a respected minister, needing a servant, sent a hogshead of rum to the West Coast [of Africa] and had it exchanged there for a kidnapped negro, whom he made his chattel, while neither his parishioners nor the community at large thought the proceeding objectionable, or even eccentric."²⁰⁴

Henry Wilson has labored to picture the local exchange of slaves on Southern soil. But the real horror of the evil is seen in the slave ships engaged in the import trade. The extent of the slave trade outside of America, the greatest bulk of which never touched the American shores, is most appalling. Negro slavery in the Southern States furnishes nothing that will begin to compare with the brutality, the fiendishness, and the widespread devastation, its pursuit brought. It lasted to the Civil War,—but the slave markets of the United States were by no means essential to its existence. I pause to call attention to a few instances, which show its brutality

²⁰²Hallam, *The Middle Ages*, Vol. I., 196.

²⁰³10 Wheaton, 66.

²⁰⁴Hosmer, *A Short History of the Mississippi Valley*, 162.

and misery. These are not isolated facts, not exceptions, but true examples of what was seen on the greater number of slavers. The picture varied only in the bloody hue its ill-luck or fortune caused it to take.

"It is a most interesting fact that while the slave trade developed vikings when it was a legal and reputable traffic, it developed a race void of every manly instinct when it became unlawful. As illustrating this fact, it may be said that in the nineteenth century the slavers dealt in children as far as possible. Children did not bring as large a price as field hands, of course, but they cowered under torture, and there was no fear of their rising against the crew."²⁸⁵ These children were tortured, were compelled to eat, were compelled to dance, were compelled to sing, under the lash; or beaten to death and thrown into the sea as food for the sharks. In one instance a two-year-old child was beaten into a lifeless state, and its mother was compelled to throw it into the sea.

In 1844 an American vessel was making a voyage with five hundred and thirty adult slaves in her holds. An insurrection had been suppressed, but to inspire terror "forty-six men and one woman were hanged and shot to death." They were manacled two and two. About twelve who were chained by the leg to a fellow, were drawn by the neck clear of the deck, "and [each] his leg laid across the rail and chopped off to save the irons and release him from his companions. . . . The bleeding negro was then drawn up, shot in the breast, and thrown overboard . . .," and "all kinds of sport was made of the business."²⁸⁶ On another occasion a drunken crew, with four hundred slaves crowded into their vessel, forgot to secure a fresh supply of water, and did not realize the mistake until far out at sea. The physician of the ship tells us that they "were drawing from the last casks before this discovery was made," and that the captain made him "calculate how long it would sustain the crew and cargo" of slaves. It was decided that the slaves were each to have "half a gill and the crew a gill each day. Then began a torture worse than death to the blacks. Penned in their close dungeons, to the number of nearly five hundred, they suffered continual torment. Our crew and drivers were unwilling to allow even the

²⁸⁵Spears, *Am. Slave Trade*, 79.

²⁸⁶John R. Spears, *Am. Slave Trade*, 80.

half gill per diem. . . . Instead of lowering buckets, it became necessary to pour the water into half-pint measures. Those furthest from the gratings never got a drop. . . . Death followed so fast that in a short time at least a hundred men and women were shackled to dead partners." In a few days after this the captain and "four of the men were taken suddenly ill with a disease that baffled my medical knowledge. Their tongues swelled and grew black; their flesh grew yellow, and in six hours they were dead." All the men but three and the physician finally were dead, when he says that he "began to notice a strange fetid smell pervading the vessel, and a low heavy fog on deck, almost like steam. . . . our rotting negroes under the hatches had generated the plague, and it was a malaria or death-mist that I saw rising."²⁶⁷ In connection with this it is interesting to remember that it is declared by good authority that the yellow fever "was generated from dead slaves in the slavers at Rio de Janeiro in 1849." "I will repay, saith the Lord."

Picture after picture of these revolting cruelties might be given, but we spare the reader, and refer him to the works of Spears, George Bancroft, and to the many instances fully given in the official reports of the various United States courts. Who is responsible for all this dire inhumanity? Who prosecuted this terrible traffic? To whom are we to look for the guilty party? Spears truthfully says that the South received "these stolen goods," but he, as is generally done, overlooks the fact that the greater majority of negroes stolen and enslaved by Northern slavers were not sold, directly or indirectly, to Southern slave-owners. Certainly, then, there was an enormous traffic in slaves with which the South had nothing whatever to do. More men, women, and children were enslaved to brutal masters in this non-Southern traffic than the whole number of imported slaves held by Southern masters. The South is held responsible for what her slave masters did; if men of wealth and often public stations in life did greater wrongs, for the correction of which there was legal power in each Northern State, is there any reason why that section should not be in the same way charged with the guilt? Then, who prosecuted the American Slave Trade?

"In America the New England colonies took the lead in the slave trade. Barefooted boys waded through the snow to find berths in

²⁶⁷Ib., 75.

the forecastles of the colony ships, and, hard as sailor's life was then, they found more comfort afloat than on the farms they left behind."²⁶⁸ In 1713 Newport, Rhode Island, was the chief slave ship port in America. Geo. H. Moore, in his history of slavery in Massachusetts, says: "At the very birth of foreign commerce from New England ports the African slave trade became a regular business." To such an extent did the slave trade of Newport grow, that Dr. Field, a native of Massachusetts, suggests that it "might have been called Slave-port, from the number of cargoes of slaves that were landed there from Africa."²⁶⁹

From the statements made in most of our histories, one might think that the early slaves of the North were all freed and well cared for by the former master. Elsewhere I have shown that in few or no cases did emancipation come to the slaves living at the passage of the several emancipation laws. How many negroes in the North were left there and made to enjoy freedom? Thousands were sold; some into the fields of the South, but the greater number sent elsewhere when it began to be known that slavery would not succeed on Northern soil.²⁷⁰ They were perhaps carried off in ships to the Madeiras or the Canaries, which were accustomed to touch Guinea to trade for negroes "who were carried generally to Barbadoes, or to the other English islands of the West Indies." Nor was their condition under slavery at home such as to inspire any great love for the masters. In the Revolutionary War, during the march of Howe through Pennsylvania, we are told that the negro slaves prayed for the success of the British arms, believing that such success would bring liberty.²⁷¹

Until policy dictated otherwise, contrary to what we are often told, the legislatures of the Northern colonies encouraged the importation of slaves. "The Massachusetts statutes of 1705, which is curiously enough often quoted as showing that the people there were opposed to the slave trade, were carefully worded to promote the trade. It did, indeed, lay a tax of four pounds on each negro imported, but a 'drawback' was allowed upon exportation." In

²⁶⁸Ib., 18.

²⁶⁹Bright Skies and Dark Shadows, 155.

²⁷⁰House Report, No. 148, 14-15, 37 Cong., 2 sess.

²⁷¹Rhodes, History U. S., Vol. I., 13; Bancroft, History U. S., Vol. VI., 180.

other words, the shrewd legislators meant to encourage the exchange of negro slaves by the shipper for such commodities as the New Englander had to sell, and when this was done the nominal import tax was refunded. "The harbors of New England were thus offered as a free exchange mart for slaves."²⁷² In 1708 the governor of Rhode Island reported that between 1698 and 1708 one hundred and three vessels were built in that State, all of which went out to capture, buy, or get in any manner, African negroes; and, perhaps without a single exception, these negroes were sold to other places than the American colonies. In 1770 Rhode Island had yet one hundred and fifty vessels engaged in the slave trade, and Spears quotes Hopkins for the assertion that "Rhode Island has been more deeply interested in the slave trade, and has enslaved more Africans than any other colony in New England."²⁷³ We are told that Hopkins again wrote in 1787: "This trade in human species has been the first wheel of commerce in Newport [R. I.], on which every other movement in business has depended. That town has built up, and flourished in times past on the slave trade, and by it [the inhabitants] have gotten most of their wealth and riches."²⁷⁴

Just twenty-six years after the much-told landing of slaves in Virginia, Boston, Massachusetts, furnished the first American, so far as history or tradition tells us, who initiated America's shameful inroads upon African homes. He assisted in an attack on an African negro village on a Sunday, and, without a shadow of justification or excuse, slaughtered with cannon and musket men, women, and children, and captured such as could be secured. The Boston slave ship carried off two of the captives as its share of the glory!²⁷⁵ In this attack, for no other purpose than to fill the holds of a Northern slave ship, more innocent persons were murdered than the whole number of slaves then held by Virginia masters. On that Sabbath "they killed many" and secured two as a reward! It is said that after these two slaves reached New England, and the story of the wholesale murder incident to their capture got abroad, that they were returned: a poor atonement! About the same time an-

²⁷²Spears, *Am. Slave Trade*, 19.

²⁷³*Ib.*, 19.

²⁷⁴*Ib.*, 20.

²⁷⁵*Ib.*, 48.

other trader instigated an African King to make war to secure slaves. In a three days' battle "4,500 were slain on the spot."²⁷⁶

The nefarious devices used by Northern ship-slavers for the capture of negroes, were of a manner more revolting than anything reported in Christian history. Of these dealers and importers, Spears says that they "introduced what is known to professional thieves as the badger game, and that they made money out of it, and that the ship merchants and the stockholders in the ship knew that it was done and willingly shared the profits."²⁷⁷ This was not a temporary trade limited to colonial days; it was carried on by Northern slavers for nearly 250 years. War, murder, treachery, were not only countenanced, but incited and aided. Helpless, bleeding, and manacled men, women, and children—yes, shipload after shipload, year after year, of children—were sold to planters in the West Indies, Brazil, or other Spanish possessions, where those who sold and those who enslaved, and the managers of and the stockholders in the ships, generally in some Northern home luxuriously reveling in their blood-bought wealth, all knew that these slaves would be not only ill-treated, but deliberately worked to death to prevent the burden of their decrepit old age resting upon the masters.²⁷⁸ Private individuals alone did not reap the profits. The three-pound tax on imported slaves laid by Rhode Island in 1708, "was laid to enable the Colonial government to obtain a share of the profits of the trade; the Newport streets were first paved out of the proceeds of that tax." In 1703 "close-fisted" Massachusetts slave-owners began to "manumit aged or infirm slaves to relieve the master from the charge of supporting them."²⁷⁹ It is interesting to contrast the attitude of the South on this point. In illustration I quote from an act passed by the General Assembly of Virginia, December 17, 1792. Section thirty-seven of the act says, "It shall be lawful for any person, by his or her last will and testament, or by any other instrument in writing, under his or her hand and seal, . . . to emancipate and set free his or her slaves, or any of them, who shall thereupon . . . enjoy as full freedom as if they had been particularly named and freed by this Act." In section thirty-eight it

²⁷⁶Observations on Negroes (Germantown, 1760), p. 6.

²⁷⁷Spears, *Am. Slave Trade*, 50.

²⁷⁸*Ib.*, 51; Alison, *History Europe*, Vol. II., 498.

²⁷⁹Spears, *Am. Slave Trade*, 92.

was "Provided *always*, That all slaves so set free, not being in the judgment of the Court of sound mind and body, or being above the age of forty-five years, or being males under the age of twenty-one, or females under the age of eighteen years, shall respectively be supported and maintained by the person so liberating them, or by his or her estate; and upon neglect or refusal to do so, the Court of the County or Corporation where such neglect or refusal may be, is hereby empowered and required upon application to them made to order the sheriff or other officer to distrain and sell so much of the person's estate, as shall be sufficient for that purpose."²⁰⁰ But in New England private and public fortunes were made from the slave traffic, yet Northern masters turned out unsalable or aged slaves to die on public charity or in want!

The social relations between the two races at the North were on no higher moral grounds than at the South. The Massachusetts act of 1705 declared that it "was 'to better prevent spurious or mixt issue.' It is shocking to learn that the young men of Puritan blood were so fond of the black brissies," says Mr. Spears. Longfellow, in his "The Quadroon Girl," meant to point the finger of scorn at the Southern planter; but *mutatis mutandis*, and the verses are quite as applicable to the poet's own New England blood. I venture to present the same scene in New England:

The Slaver in the *quiet bay*
Lay moored with idle sail;
He waited for the *fading day*
And for the evening gale.

The *Spinner now by his paying loom*
Smoked thoughtfully and slow;
The *Slaver turned from the room*,
He seemed in haste to go.

Before them with her face upturned,
In timid attitude,
Like one half curious, half amazed,
A Quadroon maiden stood.

"The soil is barren, the climate cold,"
The thoughtful *Spinner* said;
Then looked upon the Slaver's gold,
And then upon the maid.

²⁰⁰Col. of Acts General Assembly of Virginia, 1794, p. 200.

His heart within him was at strife
With such accursed gains;
For he knew whose passions gave her life,
Whose blood ran in her veins.

But the voice of nature was too weak,
He took the glittering gold!
Then pale as death grew the maiden's cheek,
Her hands as icy cold.

The Slaver led her from the door,
He led her by the hand,
To be his slave and paramour
In a strange and distant land.

An ex-Union officer, born in Ohio of negro parentage, gives unimpeachable evidence that the morals of Northern white men had not improved with flight of years. He says, "It may have been the outcroppings of gratitude to Federal victors, or reckless abandon to lust, but the inciting cause is immaterial, so long as the shameful fact is true, that, whenever our armies were quartered in the South, the negro women flocked to their camps for infamous riot with the white soldiers. All occupied cities, suburban rendezvous, and rural bivouacs, bore witness to the mad havoc daily wrought in black womanhood by our citizen soldiery. We have personal knowledge," continues this writer, "of many Federal officers of high station, and some of strong prejudices against the race, who openly kept negro mistresses in their army quarters; nor do we doubt that the present lax morality everywhere observable among negro womankind is largely due to the licentious freedom which the war engendered among them. Slavery had its blighting evils, but also its wholesome restraints."²²¹

In the census of 1860, we are told, "Comparing the Northern section with the Southern, a greater proportion of mulattoes is found in the free States."²²²

To return to the Massachusetts enactment. "The act was really designed to enable the colonies to share in the profits of the slave trade, and to encourage slavers in making Boston a clearing house,

²²¹William Hannibal Thomas, *The American Negro*, 14 (The Macmillan Co., 1901).

²²²Vol. on Population, X.

so to speak, for the slave trade of the whole continent."²⁸³ Concerning the laws relative to the slave trade in New Jersey, the same author says, "And all this is to say, with emphasis, that the prohibitive legislation of New Jersey, as of some other communities, was placed strictly on business considerations. The only question really was, Which in the end will pay the best—white or black servants?"²⁸⁴

The prohibitive legislation in Pennsylvania plainly says it was enacted because of fear of slave insurrection. "It was sheer cowardice of conscientious tyrants that animated those Pennsylvania legislators," Spears adds. In the early history of South Carolina we find a prohibition from the same motive. Hence, that the moral side of slavery ever had any weight in bettering the condition of the slave on the American continent, or in suppressing the slave trade, is purely a manufactured claim invented by recent historians to give a semblance of sanctity to the greatest purely political war of the world. "Not one act passed by a colonial legislature showed any appreciation of the intrinsic evil in the [slave] trade or tended to extirpate it from the seas—not one."

In 1800 Congressman Brown, of Rhode Island, stood in his place in the nation's legislature, and said, "We want money; we want money; we ought, therefore, to use the means to obtain it. Why should we see Great Britain getting all the slave trade to themselves—why not our country be enriched by that lucrative traffic?"²⁸⁵ All this—and the vast deal not here intimated—justified the South, during all the years of the long struggle and through all the bitter debates, in her position: "Let him that is guiltless cast the first stone." To the historian of to-day the voice of a loyal South implores, Tell the whole story; tell of the millions of property stolen and spirited away North; tell of the hellish slave trade which filled the places which were thus made vacant.

"Write! and tell of this bloody tale,
Record this dire eclipse,
This day of Wrath, this Endless Wail,
This dire Apocalypse."

—Longfellow.

²⁸³Spears, *Am. Slave Trade*, 93.

²⁸⁴*Ib.*, 94.

²⁸⁵*Ib.*, 116.

The notorious abolitionist, Helper, whose writings were a fire-brand of treachery and infamy, is said to have been chiefly instrumental in inducing support in Congress for a bill requiring all negroes, destined for the then Territory of Louisiana, to enter through a port of the United States before landing in that Territory. Whatever the motive for this law may have been, at least it furnishes us some valuable statistics. This law drove most of the slaves bound for the Spanish plantations in the Louisiana Territory to enter at a South Carolina port, from whence they could proceed to New Orleans and sell the slaves into the interior. As a result, from 1804 to 1807 inclusive, 202 ships entered 39,075 African slaves. This was the largest importation of slaves to America during any period of similar length up to 1860. But it was only a small part of the slaves captured, handled, and sold mainly by Northern slavers. As importations to America began to be dangerous, owing to the Federal prohibition which shortly after the last above date went into effect, the Northern slavers, who, as several times said, all the while had sold a large per cent. of their negroes out of the colonies and later the United States, increased their traffic to the West Indies, Brazil, or elsewhere, and sold their captives to a more brutal servitude than the worst example which existed in the South. The four years of entry through Charleston's (S. C.) custom-house are significant:

"These ships were divided as follows: 'From Connecticut, 1; Boston, 1; Norfolk, 2; Baltimore, 4; Rhode Island, 59; Charleston, 61; Sweden, 1; France, 3; Great Britain, 70.' There were only sixty-one ships nominally hailing from Northern ports engaged in the trade [to the Territory of Louisiana and the South alone]. But when one looks to see who reaped the profits it appears that of the consignees of those slavers '88 were natives of Rhode Island, 13 of Charleston, 10 of France, and 91 of Great Britain.'" As the years went by this small per cent. of Southerners engaged in the slave trade fell off to practically nothing, France and Great Britain became the friend of the negro, while it remained for the North to continue the trade. Little or no effort was made in that section to execute the laws passed by Congress in prohibition of the trade. The courts practically upheld the slavers. If one will take the time to examine the reported cases, this fact will be apparent. A single

slave voyage, great as was the fatality on board slavers, yielded about \$12,000 profit. In later years long after the trade had become unlawful, the few captures that were made were held in so light bonds that the bond could be forfeited, as was nearly always done, and then leave a handsome profit of several thousand dollars. Bond in the sum of \$200, and in a few cases \$5,000, was required. Even the latter sum, required only in some cases in later years, left a clear profit of about \$7,000. But the most startling feature of the judicial side is that perhaps 80 or 90 per cent. of the cases against those who plied the trade, were either dismissed without a trial, or if tried found not guilty. This last was not the result of insufficient evidence, either.²⁸⁸ And this is the history of slaver trials in Northern courts, too! In looking over these judicial proceedings, it will strike one that in many of the cases where the parties engaged in any given voyage were acquitted or the case against them dismissed, the ship itself was condemned and sold. The explanation is that in cases against the ship informers were paid, and the successful prosecutor received a reward, while there was no reward for informing against the crew or the owner! Verily, the Yankee has always had an eye open for money. For money he would condemn an unconscious ship; while the hand that guided it, and the *conscienceless* brain that had planned the voyage, went "scott free!" The Yankee has ever been a shrewd business man!

The courts and their officers were not alone *particeps criminis*; merchants and business men increased the profits on many voyages by combining captured or purchased negroes with the legitimate part of the cargo. Dr. W. E. B. Du Bois, some time fellow of Harvard University, has given a strong picture in this connection. He says, "The fitting out of slavers became a flourishing business in the United States, and centered at New York city. 'Few of our readers,' writes a periodical of the day, 'are aware of the extent to which this infernal traffic is carried on by vessels clearing from New York and in close alliance with our legitimate trade; and that downtown merchants of wealth and respectability are extensively engaged in buying and selling African Negroes, and have been, with comparatively little interruption, for an indefinite number of years.'" In 1852 the British consul reported, "Almost all the slave expedi-

²⁸⁸Du Bois, *Suppression of the American Slave Trade*.

tions for some time past have been fitted out in the United States, chiefly at New York."²⁸⁷ Another periodical says, "The number of persons engaged in the slave trade, and the amount of capital embarked in it, exceed our powers of calculation. The city of New York has been until late [1862] the principal port of the world for this infamous commerce; although the cities of Portland and Boston are only second to her in that distinction. Slave-dealers add largely to the wealth of our commercial metropolis; they contribute liberally to the treasuries of political organizations, and their bank accounts were largely depleted to carry elections in New Jersey, Pennsylvania, and Connecticut.' During the eighteen months of the years 1859-1860 eighty-five slavers are reported to have been fitted out in New York harbor, and these alone transported from 30,000 to 60,000 slaves annually. The United States deputy marshal of that district declared in 1856 that the business of fitting out slavers 'was never prosecuted with greater energy than at the present. The occasional interposition of the legal authorities exercises no apparent influence for its suppression. It is seldom that one or more vessels cannot be designated at the wharves, respecting which there is evidence that she is either in or has been concerned in the Traffic.'"²⁸⁸ In 1857, scarce three years before the final crisis, England captured twenty-one slave ships belonging to citizens of the North, United States of America.²⁸⁹

Most important and most significant is the fact that these ships were not engaged in trading their captured negroes to the citizens of the United States. For twenty years very few negroes had been shipped from Africa to America. Fresh Africans were too easily detected; they were semi-wild, and knew nothing of the English language. Even the trade in the earlier years came from Cuba, or some place where the negro had been enslaved already, and had learned something of the English language. March 22, 1862, William H. Seward, President Lincoln's Secretary of State, in an official communication to Lord Lyons, of England, said, "On reviewing the history of that [the slave] trade during the period which

²⁸⁷House Executive Doc., 34 Cong., 1 sess., XII., No. 105, p. 38.

²⁸⁸Suppression of the Slave Trade, 178-9; Wilson, *The Rise of the Slave Power*, Vol. II., 619.

²⁸⁹Enc. Btr., Werner's Ed., *Slave Trade*, 770.

has elapsed since the convention which was entered into between that government [England] and our own on the 9th day of August, 1842, it has been found that during that time no slaves have been carried into the territories of Great Britain, and with the exception of the case of the bark 'Wanderer,' none have been brought into the United States. But it is equally certain that large numbers of African slaves have been carried into the colonies of Spain, and that this infamous traffic has been mainly carried on by persons resident in other countries, including the United States, and under the fraudulent cover of the American flag."²⁰⁰

The North could have stopped this trade—aside from Federal regulations. The States could have prevented slavers fitting out in their waters. A slave ship was easily identified. The destruction of slavery in the South was absolutely not necessary to the destruction of the import trade. As Du Bois says, "thousands were shipped to Brazil and hundreds to the United States"; and he might truthfully have added, and thousands to many other places than Brazil, which made multiplied thousands as against hundreds to the United States. The thing of which the South complains is that the North insisted and insists that the war was necessary to make the North stop her own evils. The North should first have conquered herself—she should have stopped this daily destruction of negro homes; she should have hushed the orphan's wail, the widow's cry—none of which Thayer, Greely, Robinson, Emerson, Parker, Higgins, Seward, and other leading Northerners, seemed to have heard—they were too near home. Such men as these spent millions magnifying those sounds borne upon Southern breezes. Since 1808 the Constitution of the United States and the laws of Congress passed pursuant thereto, had forbidden this bloody traffic. It is not a little wonder to some of us that the "awakened conscience" of the officers of and contributors to such institutions as the emigrant aid companies, of which we shall hear later, did not spend a few thousands, at least, enforcing the organic laws of the Union against those of their own household. Du Bois says that the North was the first to hang a slave dealer and importer; of course, Haman was hung by his king, but the king had sanctioned, for money, Haman's crime. Such is the inconsistency of

²⁰⁰Ex. Doc. No. 57, 37 Cong., 2 sess., p. 2.

avaricious nature! Even when the notorious slaver was hanged it raised a storm of indignation and popular protest. Capt. Nathan Gordon, a citizen of Maine, was captured on the coast of Africa with a slave ship from New York. This was in 1860. He had on board eight hundred negroes destined for some slave market. He was tried in a New York Federal court, charged with piracy under a law passed by Congress in 1820. He was convicted, sentenced, and finally hanged. New York citizens made every effort to save him through the courts. "Nor was that all that was done to save him. Threats were made that a rescuing mob to storm the jail would be raised—threats that were really ominous, for that was a day when innocent negroes were hanged to lamp posts by a New York mob." So says Spears.²⁹¹ And then tell me that the North waged the Civil War because of an awakened conscience! It must have had a good nap before the rude "awaking," since this law under which Gordon was executed had been on the statute books for forty long years! No wonder the South discredited Northern professions of interest for the welfare of the negro. Gordon was hanged forty years too late.

Very much is often said about the coastwise and interstate trade in the South, and the selling of slaves from one master to another. While this custom was sometimes abused, yet as a matter of fact it furnished no more instances of abuse and misuse than some of the labor institutions and industries of this very day. The most enlightened families must part; but on many hundreds of plantations, generation after generation of slaves succeeded each other without a sale. Husband and wife were seldom parted, and young children were left with their parents. The slave-drivers, as those who bought and sold negroes were called, had no standing with the best people in the South. No matter how white he was, the slave dealer was not even permitted to eat at the table with the better families.

Dr. Wilson, President of Princeton University, says, "Slavery showed at its worst where it was most seen by observers from the North,—upon its edges . . . but in the heart of the South conditions were different, were more normal. Domestic slaves were almost uniformly dealt with indulgently and even affectionately by their

²⁹¹Am. Slave Trade, 221; Roosevelt, New York, 204.

masters. . . . 'On principle, in habit, even on the grounds of self-interest, the greater part of the slave-owners were humane in the treatment of their slaves,—kind, indulgent, not over-exacting, and sincerely interested in the physical well-being of their dependents,'—is the judgment of an eminently competent northern observer who visited the South in 1844. 'Field hands' came constantly under the master's eye, were comfortably quartered, and were kept from overwork both by their own laziness and by the slack discipline to which they were subjected." Again the same writer observes: "Probably the most demoralizing feature of the system, taken as a whole, was its effect on the marriage relation among the negroes. It sometimes happened that husbands were sold away from their wives, children away from their parents; but even this evil was in most instances checked by the wisdom and moral feeling of the slave-owners. Even in the ruder communities public opinion demanded that when negroes were sold, families should be kept together, particularly mothers and their children. Slave-dealers were universally detested, and even ostracized; and the domestic slave trade was tolerated only because it was deemed necessary for economic distribution of the slave population."²⁹²

Alexander Black, a reputable and reliable historian of Northern proclivities, says that the *border* States "presented probably the least offensive form of slavery. The conditions of life in Kentucky favored a domestic kind of servitude under which the slaves displayed little discontent. In Virginia slavery never revealed its most objectionable traits; and throughout the river counties of both States the treatment of the slaves was so humane that a relatively small number accepted the river's invitation to escape."²⁹³ Here, then, is eminent testimony that neither upon "its edges" nor "in the heart of the South" was slavery what agitators were continually representing it to be. As the agitation went on, the South gradually was being led out for execution upon false testimony.

Many histories paint in stunning colors the value and great numbers of the domestic slave trade. Yet, deplorable as it now and then was, when the worst is told, even if we take the most flagrant cases, those that are admittedly exceptions, as a measure, these evils

²⁹²Division and Reunion (1893), 125, 126, 127.

²⁹³The Story of Ohio, 215.

did not begin to compare with the murders, deaths from torture, parting of families, wholesale destruction of children, and the accursed stench that rose from the trade on the seas like a death mist which filled the nostrils of the civilized world, making our flag a by-word and an emblem of piracy. Both sections, it is true, had their sins; but what was a mote in the eye of the South, became a beam in the Northern eye, upon which rode the chief of the Harpies whose bony hand reeked with blood while his treachery fattened—not figuratively, but literally—the sharks of the ocean on women and babies.

Let us look for a moment at some figures, and see if our assertions are well founded. We can never know the full extent of the shipments by the North; the greater part was done clandestinely, and never saw the light of a record. But enough is known to enable us to get a glimpse which is very significant. Virginia and South Carolina were the great slave-producing and selling States. During one of Virginia's best years of the trade, she sold 40,000. These were sold to planters in the United States. We can make an interesting estimate of what was the part of the Northern trade in negroes, and may have an idea of the number sold mostly to worse masters than those found in the States, from the following slavers and the number that each carried at the date given :

YEAR.	NAME OF VESSEL AND WHERE FROM.	SLAVES CARRIED.
1841	SOPHIA, of New York, shipped to Brazil one trip.....	750
1844	SOOY, of Newport, Rhode Island, captured with.....	600
1847	FAME, of Connecticut, landed in Brazil.....	700
1847	SENATOR, of Boston, Mass., landed in Brazil.....	944
1850	MARTHA, of New York, captured while about to embark.	1,800
1850	LUCY ANN, of Boston, Mass.....	547
1853	CAMARGO, of Portland, Me., landed in Brazil.....	500
1854	GLAMORGAN, of New York, about to embark.....	700
1860	THE ERIE, from a Northern port, captured with.....	897
1864	HUNTERS, of New York.....	500

Ten vessels carried a total of..... 7,938

This leaves on the average for a vessel, not counting fractions, 793 slaves. This I believe to be an underestimate. In 1838 the *Venus* embarked 1,100 slaves and landed 860 of them;²²⁴ and about

²²⁴David Turnbull, of Eng., Cuba (London, 1848), 436.

1854 another American slave ship, the *Bender*, landed 800 in South America.²⁹⁶ In the colonial days very small crafts carried nearly a thousand. They were often packed like bags of salt on the water kegs, or pinned by heavy irons to the floors, in such a manner as to make life very uncertain. So that the above list is selected to show what the ship in the later days of the trade carried. I might extend the list to thousands, but since we can only get an estimate at best, this will answer. Within little more than a year, we have seen that eighty-five fitted out from one port. If one port furnished so many, it will be entirely safe to estimate one hundred from all the ports of the one State; this gives one Northern State alone an enslavement of over 111,000 people, estimating one trip per year. But a vessel could make two trips a year, which gives us 222,000 human beings both enslaved and sold by the citizens of a single State. This is more than five times the number sold by Virginia alone, and more than twice as many as sold in any one year by both Virginia and South Carolina, the two most extensive slave-trading States in the South.

If we take the earlier stages of the slave trade by the North, the figures are very much more in excess of those of the Southern trade. For instance, as early as 1770 Rhode Island had one hundred and fifty vessels engaged in the trade. Incredible as it seems to us, these early crafts, small as they were, were made to carry from 200 to 800, and even more, slaves. If we make the very conservative estimate by allowing only 200 slaves carried by each vessel in the year, we have this one State enslaving 30,000 people.

Bancroft says, "The horrors of the passage corresponded with the infamy of the trade. Small vessels of little more than two hundred tons' burden, were prepared for the traffic. . . . In such a bark five hundred negroes and more have been stowed, exciting wonder that men could have lived within the tropics, cribbed in so few inches room . . . death hovered always over the slave ship."²⁹⁶

From what I have said, the young student must not conclude that no Southerner engaged in the slave trade. A few did. Now and then a vessel fitted out from New Orleans, or Norfolk, or a South Carolina port. But it was not uncommon that vessels had

²⁹⁶Edw. Wilberforce, of Eng. Navy, *Brazil* (London, 1856), p. 20.

²⁹⁶Geo. Bancroft, *History U. S.*, Vol. II., p. 272-3.

Southern names, for instance, the KENTUCKY, which belonged exclusively to Northern men; and so not all those that purported to be Southern were really so. We noticed this in the report from the harbor record of Charleston given previously. Now and then a Southern man, occasionally one of prominence, like Gov. D. B. Mitchell, who resigned the office of governor of his State, engaged in slave-smuggling. The number of such men and the number of vessels were so inconsiderable, considering those which were the *bona fide* property of Southern men, that they have little importance except in the coast-wise trade, which was not an import trade, and which has already been noticed. In the case of Governor Mitchell, it must not be forgotten that he was prosecuted under a charge brought by Governor Clark, governor of the State of Georgia. His case was most certainly exceptional. No State was making a more honest effort to stop the importing of negroes than was Georgia. Mitchell's offence was alleged to have been committed in the fall and winter of 1817. In aid of the constitutional prohibition of Georgia, her legislature had passed some very rigid laws, and only a few months before the Mitchell case, about 1816, one of these made the importing of negroes a penitentiary offence. At the time, Mitchell was Indian agent, to which he had been appointed by the President on his resignation from the governorship. This is why the papers in the case were presented to the Senate May 6, 1822. The original record is worth reading.²⁹⁷

Another case was that of the *Wanderer* which Mr. Seward said was the only exception during the twenty years immediately preceding the Civil War. She was built in New England, fitted out in New York, officered by the North, and had Col. John Egbert Farnum, born in New Jersey, educated in Penn., an active Union officer in the war, as her captain. Of her crew only one was a Southern man. C. A. L. Lamar, of Georgia, was interested in her cargo, which was landed in Ga. Every effort to bring the guilty parties to justice was used by Gen. Henry R. Jackson, of Georgia, who was ably assisted by the daring Lucien Peyton, of Virginia. Jackson's speech reviewing the history of the case, delivered in Atlanta some years ago, has become a classic.

²⁹⁷American State Papers: Misc., Vol. II., 958.

VIII.

LEGALITY OF FIRST KANSAS ELECTIONS.

THEIR RELATION TO THE CIVIL WAR; FACTS FROM ORIGINAL RECORDS.

We have been looking at Northern objections to the bill opening the Territories of Kansas and Nebraska for settlement. I have given my view of the true motives which actuated a great body of the North, and which dictated their political position. We come now to a stage of our investigation in which it will be seen that the designs against the South and her political power took a decidedly more aggressive form. By the passage of the bill opening the new Territory, the majority voice in the nation's legislature declared in favor of the doctrine that each State or Territory should manage its own domestic institutions, limited only by the Constitution of the United States. Up to that time the fight between the two sections had been waged in Congress and through non-legislative means. The North now despaired of carrying their ends in the national legislature, and determined to turn their batteries against the Territories. It was recognized that local elections would determine the political complexion of Congress. The North was afraid to leave the emigration and settlement of the new Territories to normal, natural causes. Southern political power, supplemented by numerous representatives from the North, was in the ascendency. The North saw that if she let the people go and make homes in the new country and frame constitutions as inclination and local interests led, that that meant an end of her political ambitions; so she determined to seize the embryo States, honestly if she might, "at all hazards" if need be. Of course, while the fight for Northern views was being hotly waged in the national legislature, much fuss was made about the negro, and a greater or less effort made to induce the world to believe that the fight was in his behalf. But the truth was, that this movement was as much anti-negro as anti-slavery,—a movement wholly devoid of any social, civil, or moral consideration for the negro, bond or free.

Without, perhaps, exactly seeing the force of what he said, Mr. Eli Thayer, one of the most prominent and aggressive Northern men of his day, admits that all the Kansas trouble grew out of the unwillingness to trust the majority voice of the people because its largest influence came from the South, or was in accord with views agreeable to Southern statesmen. In his book covering the Kansas struggle, he says, "On May 30, 1854, the Kansas-Nebraska bill, containing the repeal of the Missouri Compromise, was signed by President Pierce, and became the law of the land. . . . The slave states, with thirty-five years of political supremacy and the prestige of the last great victory over the North, with perfect discipline and irresistible power, were confident of undisputed control in the government for generations to come. . . . In a few years her Senators in Congress would nearly double the number from the North. Their skill in diplomacy and politics, acquired by unremitting practice and study, much excelled that of the Northern people. . . . No wonder that we were helpless and hopeless . . . the apprehension became despondency, and the alarm became despair."

The mere fact that the South "for thirty-five years" had enjoyed political supremacy, justified the North in no act which did not fully accord with the right and legal use of the ballot. All these were years of prosperity; it is not disputed that during all this time Northern industrial development knew no bounds. Yet, as a remedy for this political despair, what did the protesting faction propose? Failing at the ballot, what remedy was to be sought? Declaiming against the passage of the Kansas-Nebraska bill, a few days before its passage, the New York *Tribune*, as quoted by Congressmen who read the signs of the times aright as they appeared on the horizon, said, "We urge, therefore, unbending determination on the part of Northern members hostile to this intolerable outrage, and demand of them, in behalf of peace—in behalf of freedom—in behalf of justice and humanity—resistance to the last. Better that confusion shall ensue in the national councils—*better that Congress should break up in wild disorder—nay, better that the Capitol itself should blaze by the torch of the incendiary*, or fall and bury all its inmates beneath its crumbling ruins, than that this perfidy and wrong should be finally accomplished."²⁰⁰ The New York Cou-

²⁰⁰Cong. Globe, 34 Cong., 1 sess., 724.

rier and Enquirer, June 26, 1856, editorially said, "The remedy is, to go to the polls, and through the ballot-box repudiate the infamous platform put forth at Cincinnati [by the Democratic convention], and over which the black flag of *slavery* waves with characteristic impudence; and failing in this [*i. e.*, if defeated at the ballot] do as our fathers did before us—stand by our inheritable rights, and *drive back with arms* those who dare to trample upon our inheritance. There is no boasting and no threat in this. It is the calm language of honest, conscientious, and determined freemen, wafted to us by every breeze from the West; and they are already acting in strict conformity with their avowed determination."²⁹⁰ "They are already acting." To whom does this writer, representative of the party to which he belongs, refer? He refers to the West—to the actions of those who are in accord with his doctrine who are carrying out his plan in Kansas. Listen to the responsive echo from Kansas: the *Herald of Freedom*, Lawrence, Kansas, the official organ of the free-State-abolition movement, details of which are shortly to be given, exclaims, "Come one, come all, slavocrats and nullifiers; we have rifles enough, and bullets enough, to send you all to your (Judas') own place! If you are coming, why don't you come along?"²⁹⁰ Were it possible to mistake this plain language, that of General James Watson Webb, at the time editor of the *New York Courier and Enquirer*, would settle the doubt: "They tell us that they are willing to abide by the ballot-box, and willing to make that the last appeal. *If we fail there, what then? We will drive it back, sword in hand, and so help me God! believing that to be right, I am with them.*" ["Loud cheers and cries of, Good."] ²⁹¹

Every man who believes he is right, may act. But he does so at his peril. An impartial world must sit in judgment upon his justification or excusability; and if his belief shall be seen to have been without adequate foundation or improperly reached, he is either a criminal, an unfair and dishonest man, or a fanatic, as the facts may determine. The fugitive slave laws, especially that of 1850, and the Kansas-Nebraska bill, are the admitted grounds for the proposed Northern action. From what has preceded, most certainly

²⁹⁰Quoted in Cong. Globe, Ib., 728.

²⁹⁰Ib.

²⁹¹Quoted in App'dx Cong. Globe, Ib., 728.

taken in connection with facts yet to be examined, the untenability of the objections to each of these measures will be undeniably apparent. I further maintain that there is one thing beyond cavil, and that is that this position of this dangerous Northern faction was proposed *rebellion*—and rebellion against the lawful government, the Constitution and laws of Congress pursuant thereto; and a rebellion against the majority will of the whole people of the Union who yet supported that Constitution and those laws which that party held objectionable, which were passed by virtue of the authority vested in Congress by that Constitution. Since rebellion is “deliberate organized resistance, by force and arms, to the laws or operations of a government, by those who owe it obedience,” as the evidence is presented it will prove that, having failed at the ballot, the resistance was carried out by organized armed force, and so passed from *proposed* to *overt*, sanguinary rebellion.

That the Constitution and the objectionable laws were yet supported by the greater number of people, the Whig and Democratic votes of 1852, in approval of their party platforms, prove as only such things can be proven under republican governments.

The Whig platform, upon which General Scott asked the votes of the people, declared, “8. Resolved, That the series of acts of the Thirty-first Congress, commonly known as the compromise or adjustment acts (the act for the recovery of fugitives from labor included), are received and acquiesced in by the Whigs of the United States, as a final settlement in *principle* and *substance* of the subjects to which they relate. . . . And we deprecate all further agitation of the questions thus settled as dangerous to our peace.” The Democrats stood upon the declaration, “9. That Congress has no power, under the Constitution, to interfere with or control the domestic institutions of the several States . . . the Democratic party . . . will abide by and adhere to, a faithful execution of the acts known as the compromise measures, settled by the last Congress, and the act for reclaiming fugitives from service or labor included, which act, being designed to carry out an express provision of the Constitution cannot, with fidelity thereto, be repealed, or so changed as to destroy its efficacy.” Mr. Pierce represented this party. Upon these announced principles the parties went before the country with the result that—

Pierce received.....	1,640,260
Scott	1,422,954

Total, ...	3,063,214
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The principle, thus endorsed, of the compromise acts of 1850, was "non-intervention by Congress in the domestic affairs of the States and Territories"; and upon this principle fixed then and there was set a precedent by leaving Utah and New Mexico to settle their several internal or domestic affairs, including that of negro servitude; and in addition to this, Congress decided, "in principle and substance," to enforce the Constitutional fugitive slave provisions, which legislation was in full harmony with the teachings of such great constitutional expounders as Daniel Webster. These were the principles which over three and one-half millions of the sovereign voters specifically endorsed, and upon which they declared they wanted all further legislation, without agitation, based. The little handful of less than two hundred thousand—it being one wing of the abolition faction calling themselves Free-Democracy, who opposed this great majority, did nothing less than declare in favor of rebellion. Hear them: John P. Hale was their candidate, and their platform declared that, "5 . . . our distinct and final answer is, no more slave States—no slave territory. . . . That the fugitive slave act of 1850 is repugnant to the Constitution—to the principles of American law. . . . We therefore deny its binding force upon the American people . . . the purpose of the Free-Democracy is, to take possession of the Federal Government."

This minority declaration became the avowed doctrine and purpose of the free-State abolition movement. All the fire and fury aimed at the Kansas-Nebraska bill—a bill in full harmony with the views of more than three millions of Whigs and Democrats—took this same position; the comparatively small Garrison party, the most pronounced secession-abolitionists, joined their mad howl to this protest. To back it armed rebellion instigated and carried out by Northerners spilled the first fraternal blood of America. Out of the din of battle, out of the combination of all sources of abolition, sprang the same old clamor from the mouths of the Lincoln Republicans. These last finally won the control of the government, but in direct opposition to the protests of nearly one million majority

of the free, sovereign, voters of our country. Northern rebellion in theory and then in organized armed resistance, *preceded Southern Secession.*

Even before the passage of the Kansas-Nebraska bill, the spirit of resistance found bold leaders who prepared to move down upon the borders of the enemy. Kansas offered several advantages for practical operations; they resolved to dominate the politics of the Territory and mould her into a State after their own conceptions let the cost be what it might; the sequel proved that they meant to dominate her ballot-box, peaceably if they could, at all hazards and regardless of existing laws if need be. Those were found who stubbornly contested every inch of the mad field, and thus Kansas became the scene of bloodshed and bitter sectional war—"the prelude to the great Civil War." Charles Robinson, one of the chief Northern actors, and whose writings are held in much repute by a certain class at this day, writing of the attitude of his party after the passage of the Kansas-Nebraska bill, says, "There was now but one way of salvation for Kansas [to become anti-Southern in sentiment], and that was not through the legislative, executive, or judicial departments of the Government, through anti-slavery societies or political organizations, but the promise land, as of old, must be secured by taking possession of it, or not at all."

The methods used in taking this "possession," the results and incidents of her first Territorial elections, the struggle between the two factions after the first elections, and the part taken by the North,—all generally grossly and persistently misrepresented,—give us some of the most important overt acts on the part of the North, which, since their repetition became constantly more possible, justified secession. Not only illegal voting, but looting, rebellion against both local and United States governments, and murder, fill the annals of the Kansas struggle from 1854 to—in fact, it may be correctly said, the close of the Civil War. Alex. Johnson, some time professor of jurisprudence and political economy in Princeton (New Jersey) University, of this period, says, "... the struggle passed into a real civil war, the two powers mustering considerable armies, fighting battles, capturing towns, and paroling prisoners."²⁰² Citizens of Missouri primarily and the South sec-

²⁰²The United States (Scribners, 1889), 201.

ondarily by reason of the slavery interest, unremittingly have been held responsible for all this evil and confusion. I am going to present evidence which I maintain shows that the charge is without adequate foundation.

When the bill opening the Territories became operative, the President appointed the first officers. These officers entered the Territory of Kansas in November, 1854, and at once entered upon the duties of government. It was early necessary to elect a Territorial representative to Congress; each new territory is allowed one representative, who may speak for her, but not vote. Governor Reeder, formerly of Pennsylvania, who was the Presidential appointee, issued rules and designated voting places and ordered this election for November 29, 1854. It was also necessary to elect a legislative body, whose duty it would be to frame a constitution, or provide for such work, upon which the Territory would ask to become a State. This election for legislators was ordered for March 30, 1855. It will at once be seen that this election promised to be the most exciting, since it would determine whether the State should have its policy and fundamental laws moulded according to New England ideas or should follow recognized Southern policies. The triumph of the New England party, or Northern party, called free-State, anti-Slavery men, abolitionists, etc., meant strength in Congress for a repetition of the ruinous tariff of 1828-'32; it meant a partisan expenditure of public treasure to further purely Northern enterprises; it meant the restriction of Southern emigration; and necessarily, the untimely restriction in the United States of territorial slavery, which by no means meant a mitigation of the evils of slavery. It meant, worst of all, a crusade into Southern States in such a way as to endanger female virtue, life, and property, to say nothing of the threatened danger to local State control by those who had not come to make the place permanent homes. Upon these issues the powers joined in battle at the ballot. Of these first elections let me quote you what historians are teaching our young people. The reader will then be in a position better to judge for himself as to the value and reliability of some modern textbooks and popular histories,—in so far as they treat of acts, movements, or issues which led to the Civil War.

Usual version of early Kansas elections:—

In a school history published in 1900 by one of our largest text-book houses, we have this statement vouched as strictly historical:

"The settlers who opposed slavery were soon in the majority; but as all the settlements were near the Missouri boundary, the pro-slavery party was reinforced by men from the latter state, who crossed the line and voted more than enough ballots at every election to counterbalance the free votes; sometimes, indeed, the number of ballots counted was more than the whole number of votes in the Territory."³⁰³

Another, published also by one of our largest text-book companies, has this to say:

"The free-State people and the slave-State people now came into collision on the Kansas plains. Men from Missouri assisted the Southern party. Rival governments were formed. Kansas soon became the scene of a violent struggle. Midnight assassinations and mobs were common, and something like open war broke out from time to time. The men from the Northern states soon had a majority, and asked admission to the Union."³⁰⁴

And yet a third much-used history for teaching our youths, published by a leading text-book company, has this to give as gospel history:

"The election of the members of the territorial legislature took place in March, 1855. On the principle of popular sovereignty the people of Kansas were to decide whether the territory should be slave or free. Should the majority of the legislature consist of free-States men, then Kansas would be a free territory. Should a majority of pro-slavery men be chosen, then Kansas was doomed to have slavery fastened on her, and this the Missourians determined should be done. For weeks before the election, therefore, the border counties of Missouri were all astir. Meetings were held, and secret societies, called Blue Lodges, were formed, the members of which were pledged to enter Kansas, take possession of the polls, and elect a pro-slavery legislature. The plan was strictly carried out, and as election day drew near, the Missourians, fully armed, entered Kansas in companies, squads, and parties, like an invading army, voted and then went home to Missouri. Every member of the leg-

³⁰³Thompson's School History U. S., 260.

³⁰⁴Eggleston's History of U. S., 300.

islature save one was a pro-slavery man, and when that body met, all the slave laws of Missouri were adopted, and slavery was formally established in Kansas."³⁰⁵

To leave the text-books, let us see what is said of this "invasion" and the "invaders." A representative variety of these excerpts are proper as introductory in order to assist in properly understanding much of the following discussion. I present them to stir no impulse of resentment, but simply because fidelity to historical truth requires the reviewer of historical data unflinchingly to meet whatsoever falls within his purview. How much of fidelity to the facts the several pictures, presented by the various writers, contain, and whether the historian of to-day, who either partially or entirely reflects their spirit or adopts their phraseology, does justice to the great section of whose people he writes, may be the more certainly determined by presenting along with what I hold to be the facts representative statements by accredited writers.

A citizen of Kansas, writing September 3, 1900, says, "The first elections were scenes of violence and disorder. The large lines of whiskey-sodden ruffians wound their several ways about the prairies and along the streams of Kansas, took armed possession of the polls and voting places, cast thousands of illegal votes, perjured themselves by certifying to fraudulent election returns and returned in a drunken frenzy to their homes in Missouri."³⁰⁶

Doctor Charles Robinson says that the Northern "settlers were averse to resort to physical force in the settlement of any conflict purely moral and political"; and that these Northern men found that "the Devil would flee only when resisted, and that pearls were not suitable diet for all animals on all occasions." He also says that in the South and West "the man who would pass current as a gentleman must be prepared at all times to protect his person and honor by force."³⁰⁷

Says Doctor Clark, "Those who could not submit to this ["the murderous assault on Charles Sumner by Preston Brooks in 1856"] were roused by the border ruffians from Missouri who invaded Kansas, and made the pro-slavery constitution for that State."³⁰⁸

³⁰⁵McMaster's History U. S., 351.

³⁰⁶Connelley, Life of John Brown, 56.

³⁰⁷The Kan. Conf., 27.

³⁰⁸James Freeman Clark, Nineteenth Century Questions, 339.

H. von Holst (professor at the University of Freiburg, Germany) says that the Missourians published their resolutions "with brutal frankness," and carried out their threats "with audacity" when they "could appeal to nothing but their own sovereign good pleasure."³⁰⁰

Dr. J. C. V. Smith, once mayor of Boston, claimed to have seen a camp of these "invading Missouri ruffians," and in describing them says that they "were young men, rough, coarse, sneering, swaggering, dare-devil-looking rascals as ever swung upon a gallows. They had not a redeeming trait of character." And this description Senator Wilson in the United States Senate commended.³¹⁰

The personal appearance of one of these "Missouri ruffians" as given by a contemporary will be interesting in this connection. Of this "border ruffian," he says, "Imagine a man standing in a pair of long boots, covered with dust and mud, and drawn over his trousers, the latter made of coarse, fancy colored cloth, well soiled; the handle of a large bowie-knife projecting from one or both boot tops; a leathern belt buckled around his waist, on each side of which is fastened a large revolver; a red or blue shirt, with a heart, anchor, eagle or some other favorite device braided on the breast and back, over which is swung a rifle or carbine; a sword dangling by his side, and a chicken, goose, or turkey feather sticking in the top of his hat; hair uncut and uncombed, covering his neck and shoulders; an unshaved face and unwashed hands; who can swear any given number of oaths in any specified time, drink any quantity of bad whiskey without getting drunk,"—and you have a picture of him. I have been inclined to feel that it was a mere clerical oversight that the tail and horns were not described.

I might quote almost indefinitely of the feats of this mastodon-like "border ruffian." His actions, Doctor Clark informs us, and, "in truth, the course of the Southern leaders illustrated in a striking way the distinction between a politician and a statesman. They were very acute politicians," he continues, "trained in all the tactics of their art; but they were poor statesmen, incapable of any large strategic plan of action."³¹¹

³⁰⁰History U. S., Vol. V., 140.

³¹⁰App'dix Cong. Globe, 34 Cong., 1 sess., 856.

³¹¹Nineteenth Century Questions, 341.

Before I proceed further let me re-state the issue; let me define my position; and give, as I understand it, the Southern contention.

I do not contend, nor did the South ever do so, that the North had no right to their views on slavery. I do not say, nor did the South, that a citizen who was opposed to slavery did not have a right *bona fide* to settle a new territory, and when a legal resident vote his sentiments on the existence of that institution in his adopted State. No representative pro-slavery man ever denied to any representative anti-slavery citizen his legal, Constitutional rights. But the South insisted that *unconstitutional, underhanded, illegal* methods should not be used by Northern anti-slavery men. Such men *did* use or encourage dishonest, illegal methods to effect their objects, in numerous instances as private individuals or as organized societies up to and through the Kansas troubles; and during that period, both as individuals and as organized, capitalized, State-legalized bodies, by 1. EFFORTS TO ILLEGALLY CARRY KANSAS ELECTIONS, with the view accompanied by overt acts, 2. TO FOLLOW THIS WITH A WRONG, ILLEGAL, IMPROPER, AND IMMINENTLY DANGEROUS ATTACK ON THE EXISTING SLAVE STATES.

I lay down the fundamental assertion that the Southern people knew of all this at *the time*; that the North took the *initiative* in the struggle; and that whatever resulted nationally or locally was forced upon the Southern people. In our present investigation let us not forget that we *now* see as *history* what Southern citizens then had justifiable reasons to believe or knew as transpiring facts—producing conditions affecting them and their children then and there. We are not to look at a theory, we are not to see things that have come to light in later years, we are not considering what was *best to have been done*; we are to see what was done and who acted first,—and I shall submit that but for which initial, unwarranted, action a great blot would have been spared our fair national record.

The method by which the truth of these assertions is to be reached is important. I have made some very strong charges; I have already quoted some very eminent authority against these very charges; I have asserted that anti-slavery men for many years prior to and down to the Civil War were threatening and making overt demonstration against the happiness, legal rights, lives, and homes

of the Southern people; I have asserted that those whom I have quoted touching Kansas, and alike many others, are incorrect, and that many things concerning the crucial epoch in American history are generally only partially told. How are we to know whom to believe? I answer, By re-examining, a lawyer would say cross-examining, the witnesses and authority upon which writers profess to rely, together with an examination of *all original* evidence. An unobscured and full presentation of the evidence available will, I submit, sustain my position.

I shall begin the investigation by a cross-examination of a most competent and intelligent witness, and one upon which all historians rely to a greater or less extent. On March the 19th, 1856, the lower House of Congress appointed William A. Howard, John Sherman, and M. Oliver, two of whom were Northern men and in sympathy with the Northern crusade, a committee of investigation, and directed them to go wherever necessary and to "proceed to inquire into, and collect evidence in regard to any fraud or force attempted or practiced in reference to any of the elections which have taken place in said Territory, either under the law organizing said Territory, or any *pretended law* which may be alleged to have taken effect therein since; and when the investigation shall be completed, to report the evidence so collected to the House." When completed, the reports, evidence, etc., comprise nearly two thousand printed pages. The investigation began with the first election, that of November 29, 1854, and investigated all others up to the time of the appointment of the committee, viz.: March 30, 1855, May 22, 1855, October 1, 1855, and December 15, 1855. Evidence was taken from the New England States to the plains of Kansas, and fully covered—as the committee was further ordered to do—not alone the legality of elections, but the emigrant aid movement, the "Blue Lodges of Missouri," the "Crusades of the Missourians," the shipment from the North of Sharp's rifles marked "books," alleged murders, except the Pottowatomie massacre, etc. The witnesses were sworn, and several months were spent in the investigation. Therefore, the evidence gathered in this investigation, printed by the government, is one of the several reliable and most valuable sources of information concerning these early struggles in Kansas. It throws much light on the character of the dangerous aggressions

of abolition, though numerous prominent Northern writers leave concerning it a different impression. Mr. Sherman and Mr. Howard, the Northern members, made a report containing very many partisan assertions based on no evidence gathered by the committee, and by no means borne out by far the greater weight of the evidence taken. These men began the evading process, and their example has been servilely followed by those historians of to-day who have sympathized with the Northern movement of that day. We must keep in mind that the free-State men, called abolitionists and various other names, and their Northern abettors, had everything at stake in the finding of this congressional committee. They were contesting for their Kansas representative in Congress; they were fighting to negative the legality of the legislature chosen March 30, 1855. The North had charged that this legislature, composed of men who were Southern in views and sympathy, had been elected by fraud, non-resident Southern voters, whom they called "Missouri ruffians," and by intimidation. This legislature had convened at Lecompton, had "organized a government, and framed a constitution permitting slavery." The Northern emigrants had held conventions in various places, had met in general conventions; had held what purported to be elections at which they claimed to have chosen a legislature, and this body had met in Topeka, and had organized what they called a government; an anti-slavery constitution was framed; and this Northern faction had resolved to stand by their work and resist the laws and acts of the authorized legislature, "to the bloody issue." They had organized and drilled military companies, had solicited and received men, money, guns, cannon, and other munitions of war from the North. Previous to the appointment of this committee, and during its investigation, great excitement prevailed North and South; and, if I might be pardoned for using Connelley's pseudo-palliative, murder and arson became "incidents." If the anti-slavery men were in the wrong, they had become rebels, and that without a shadow of justification or excuse. Their only claim for justification was that the elections had not reflected the voice of the *bona fide* citizens.

Mr. Robinson and similarly many who write from the anti-slavery standpoint, quote from the report of Messrs. Sherman and

Howard; and Robinson says their conclusions are "based upon the testimony of both parties, and is a revelation new to republican government."⁵¹² Then he proceeds to quote the honorable gentlemen,—but not once does he take time to give us a fair sample of the voluminous evidence taken in direct contradiction to their conclusions. Hundreds of thousands of the report made by these gentlemen were scattered throughout the North at the time, and were unaccompanied by the evidence either *pro* or *con* or by the minority report. Opinions were formed from what was said in that report, and the fact that it was not borne out by the evidence in much of what it said, especially when read unaccompanied by the evidence, could not be otherwise than unknown to many. I shall first quote from the report filed by Mr. Oliver, who was a representative from Missouri, and then give such abstracts of the evidence as that it may be seen that he is fully borne out, and so that it may be seen that I am substantiated in my position. I shall then offer unimpeachable evidence corroborative to this in support of my indictment. Those who wish to see the evidence in full must consult House Report No. 200, 34 Cong., 1 sess.⁵¹³

Mr. Oliver says that the report made by his colleagues did not have his consent; and not this only, but he further says that he "knew nothing of the contents or character" of "the paper in the nature of a report drawn" up or submitted by his colleagues "until it was read in the House." He alleges that this report was partisan and "that many statements therein rest upon no evidence whatever taken by the committee." "There is no evidence that any violence was resorted to, or force employed, by which men were prevented from voting at a single election precinct in the Territory, or that there was any greater disturbance at any election precinct than frequently occurs in all our state elections in exciting times. A number of witnesses on both sides swear that men on both sides had arms, guns, pistols, bowie-knives, etc., and made threats, etc. But no one of them swears that any one was prevented from voting by the use of these weapons in a single-

⁵¹²The Kansas Conf., 10.

⁵¹³To the pages of this original document I refer in the following when, for brevity, simply "Evidence" or "Majority" or "Minority Report" is cited. Each of these has its own paging. Read notes at end of volume.

instance. . . ." "The testimony from beginning to end," continues Mr. Oliver, "does not disclose the fact of a single assault and battery at or about the polls, on account of the side any one wished to vote or had voted, in the whole Territory on the day of election."¹¹⁴ He also asserts, and refers to sustaining evidence, that the legislature and all other officers alleged to have been elected by the Southern emigrants, WERE LEGALLY CHOSEN. If these assertions be true, then the statements contained in the extracts I have previously quoted from authors recognized to be standard, are incorrect.

Dr. Robinson admits that in the first election the Northern men, who were the anti-slavery element, were in the minority. On page 97, *Kansas Conflict*, he says, "At this time [election November 29, 1854] every considerable settlement in the Territory, except Lawrence and vicinity, was pro-slavery. . . ." Gen. Whitfield was candidate on the Southern ticket, and Messrs. Wakefield and Flenniken represented the Northern sentiment. There were 2,833 votes cast for all candidates. Of these Gen. Whitfield received 2,238, Flenniken 305, Wakefield 248, scattering 22. Robinson gives the figures somewhat more favorable to his side than do the committee;¹¹⁵ but his own figures show the Southern or pro-slavery candidate, Gen. Whitfield, legally, duly, and honestly elected. He says the illegal vote was *estimated* to be 1,729; take this from the General's reported vote, and he has 509 legal votes. This gave him an admitted majority of 204 over the next highest candidate, Flenniken, who received 305. It is an unquestioned rule of law that unless the fraud, or intimidation, in an election is sufficient, had it not been used or resorted to, to have caused a different result, that then the election is not thereby vitiated. ". . . the fact that illegal votes were received will not affect the election, or render it void, unless the number is great enough to affect the general result.

"When, however, it is shown that illegal votes have been cast for a candidate, they should be deducted from his vote; and if, by so doing, the general result is changed, the opposite candidate should be declared elected."¹¹⁶ And even where fraud is alleged and proved, unless the "fraud is of such a character that the correct vote can-

¹¹⁴Minority Report, 75.

¹¹⁵See Majority Report, 8.

¹¹⁶6 Congressional Elec. Cases, 243; Amer. and Eng. Enc. of Law, Elections, 352.

not be determined," it does not invalidate the election if any man received a majority of the legal votes legally cast.³¹⁷ No claim was or is made that the votes returned for Flenniken were not correct. Probably no popular election in the world was entirely free from some fraud or irregularity; and whatever there was in that one, both by evidence of sworn witnesses and the admissions of their own writers, leaves it *legal*. Says Dr. Frank W. Blackmar, of the Kansas University: "There is little doubt, indeed, that Mr. Whitfield could have been elected had there been no fraudulent votes cast, for at this time the majority of the citizens of the Territory were Proslavery."³¹⁸ But—the law says that *because the legal votes were in the majority*—this election was legal and indisputably valid. Dr. Blackmar, it would seem from his language, makes the mistake of assuming that *some* illegal or fraudulent votes vitiates an election and renders it nugatory. This is not only a very grave error—and if he does not others do make it—but it is very unfair in its bearing upon the history of the relations between the North and the South. Nothing but unpardonable prejudice can keep erroneous statements concerning the Kansas elections current in history. No man was ever more rightfully entitled to his seat in Congress than was General Whitfield under the valid election of Kansas Territory October 29, 1854. Prof. Chas. R. Tuttle is perhaps the only historian who is thoroughly anti-Southern in his treatment of Kansas history, who has the fairness frankly to admit the legality, under the law, of this election. He says, "Further, it may be mentioned that when a congressional investigation was made into the facts, it appeared that all the violence and fraud resorted to were surplusage, as General Whitfield received a majority of the legal votes that were polled on the 29th of November, 1854."³¹⁹

I have thus far been more than liberal in my treatment of this election. Even those who admit that Whitfield received a majority of the legal votes persist in speaking of "violence" and "intimidation" offered by Southerners or Missourians. It is due to history to call attention to the fact that there is even less ground for alleging the use of violence or intimidation than for the claim that there

³¹⁷Ib., 353.

³¹⁸The Life of Chas. Robinson (Topeka, 1902), 125.

³¹⁹A New Centennial History of the State of Kansas (Madison, Wis., and Lawrence, Kans., 1876), 144.

were illegal votes. Thus far, in estimating the vote, I have granted that the illegality was perpetrated entirely by Missourians, or other Southerners, which was by no means the case. That the reader may see this, since the original record cannot be seen by all, and that he may judge for himself how far the claims for violence and intimidation are justified; I present a synopsis of the evidence taken by the Congressional investigating committee. I endeavor here to give the substance of what each witness stated as best reasonable space will allow. I give the leading evidence concerning seven districts; this evidence I take to be fairly representative of the whole. "The most shameless fraud was practiced" in the seventh district, says the majority report. Not an illegal vote is charged against the first, third, eighth, ninth, tenth, twelfth, thirteenth, or seventeenth district.

SECOND DISTRICT.—Four witnesses were examined.

1. Does not say he saw a single illegal vote, and saw but one man from Missouri.
2. Saw one illegal voter, but does not say for whom he voted; saw no violence or intimidation.
3. This witness was an anti-slavery candidate; was in the election judges' room all day; saw "several" (no estimate) illegal voters, some of whom he names, but does not say for whom they voted.
4. Proves nothing for either side.

FOURTH DISTRICT.—Seven witnesses examined.

1. Saw some Missourians who said they had voted; does not say how many or for whom they voted, but says they were hollowing for both sides.
2. More voters on the poll-books, in estimation of the witness, than legal resident voters in the district, but does not say or intimate who cast the surplus or for whom they were cast.
3. Mentions some names on the books who, he says, were not residents, but says not a word about illegal votes for any particular side.
4. Heard a Missourian say about one hundred and fifty Missourians had voted; heard one man say he had sent twenty of them to vote; witness speaks from hearsay only.
5. Saw eight armed Missourians vote; does not say for whom.
6. Witness was a stranger; saw many strangers drunk; did not pretend to estimate the vote or say for whom cast. Heard some Missourians say they had a right to vote.
7. Heard Missourians say they had been to the Territory and had voted.

FIFTH DISTRICT.—One witness.

1. Saw men who had lived in Missouri vote; mentions only one who he says yet resided there; saw others of them who had claims in the Territory and who insisted on the right to vote.

SIXTH DISTRICT.—One witness.

1. One hundred Missourians told witness they had voted; did not say they said for whom; saw "several Eastern Northern free State abolition emigrants who intended to vote and then leave for home." (Evidence, p. 11.)

SEVENTH DISTRICT.—Read notes at end of volume.

1. Several pro- and anti-slavery settlers had left their claims; saw some illegal votes from Missouri; no estimate.

ELEVENTH DISTRICT.—No evidence taken.

FOURTEENTH DISTRICT.—Seven witnesses.

1. Witness was an election judge appointed by Governor Reeder; he says one of his associate judges was a Missourian, but that there was "a handsome majority" cast by legal voters for the Southern candidate. (Evidence, p. 15.)

2. Not one word about illegal votes or other election wrongs.

3. Saw seven Missourians' names on the poll-book; does not say for whom they voted.

4. Heard the same seven say they had voted.

5. Saw Missourians at election who said they voted; no estimate.

6. Witness was Mr. Scott, who they claimed was the illegal judge because he lived in Missouri. He says he had a land claim in the Territory; that he took the required oath "and faithfully and impartially discharged his duties." (Evidence, p. 930.) He says those Missourians who voted felt it was thus necessary to counteract votes sent out by the Emigrant Aid Societies, many of whom openly alleged they came merely to vote, not to become residents. (Ib., 932.) No where is Mr. Scott's evidence questioned or sought to be impeached.

7. Witness was an acting justice of the peace; says not a word about illegality; says that he advised the crowd that under the Governor's proclamation each man had a right to decide for himself whether he should vote.

FIFTEENTH DISTRICT.—Eight witnesses.

1. Witness was an anti-slavery, free State man; "I saw but two Missourians there [voting place] that I know by name, but did not see them vote."

2. Voted for Flenniken, who was a non-resident; saw but two Missourians vote, but says he "thinks" two hundred non-residents voted.

3. Saw two or three Missourians vote; mentions about a dozen names, presumably those on the poll-books, and says, "So far as I know they do not live in Kansas." Says these claimed they had as good a right to vote as those voters sent out by the Emigrant Aid Societies. (Evidence, p. 20.)

4. Tells nothing.

5. Tells nothing.

6. Did not vote or see any one vote. Valuable witness!

7. Says election was "orderly and quiet," but witness judges there are about one hundred and six names on poll-books not residents. (P. 1132.)

8. One of Governor Reeder's constables; saw ten illegal pro-slavery votes and one illegal Northern or free State vote. Says Flenniken's [the non-resident abolition candidate] nephew was on the ground electioneering, and was "drunk and overbearing." [Connelley, whom I quoted above, must have gotten some of his own "whiskey-sodden" men mixed with the Missourians.] "Both sides voted as peaceably and quietly as I ever saw at any election." "The Missourians did not interfere by word or act." (P. 376.)

SIXTEENTH DISTRICT.—Eight witnesses.

1. "I had a list of voters at that election. The pro-slavery party had a majority in this district . . . as I was well acquainted with the voters and made out a list with others who knew men that I did not know; and this [majority] was the result after giving all the doubtful votes to the free State party." (P. 31.) Pro-slavery or Southern men tried to keep the polls open so everybody could get in. (P. 30.)

2. This witness stated positively that in this district the Southern men had a majority; says there was no trouble; says Flenniken, the Northern candidate who secured the second highest number of votes, was a non-resident. (P. 26.)

3. Saw some Missourians who said they voted because non-resident Northern men had done so; no estimate of the number. He says of voters he knew in the district "General Whitfield received a majority." (P. 30.)

4. Saw much crowding near the voting place, but one side was kept out as much as the other. "I saw no votes given in that day that I knew to be illegal." (P. 24.)

5. "I went to the election with six or seven friends of Flenniken, who all had pistols and bowie-knives." No one was prevented from voting. (P. 38.) [Gracious! from reading the histories one would think that only Missourians, or men who were voting for Southern candidates, carried such ornaments!]

6. Says two hundred Missourians voted that day; free State men had difficulty to get to the polls. (P. 37.)

7. "No quarreling, but a good deal of crowding." (P. 24.) "General rumor was that Flenniken was from the East and did not" reside in Kansas. Witness says he voted for Wakefield [a very outspoken and avowed abolition candidate], and says he "was not frightened at all." (P. 25.)

8. "As quiet an election as I ever saw." Both sides had pistols and arms, but no more than were common at that day on the frontiers. No violence offered any one; saw no illegal votes. (P. 32.) Southern party had a large majority in that district.

Such is the *evidence* concerning this first Kansas election. What are we to conclude? This evidence was taken when the entire affair was fresh in the minds of participants. Its vagueness and uncertainty cannot fail to strike even the more prejudiced. To give the evidence the benefit of every suspicion of doubt, the best we can

say is that it *tends* to prove illegal votes something as follows against the Southern side:

Second district.....	12
Fourth district.....	150
Fifth district.....	100
Sixth district.....	5
Fourteenth district.....	7
Fifteenth district.....	10
Sixteenth district.....	200
Total	484

Read the evidence carefully, and these figures will be seen to be strongly liberal. That number of illegal votes is by no means *proven*. But where there is an intimation, however unreliable it may be, that there are anything like so many illegal votes I grant them in the above figures, and at the same time I grant that all of them were cast for the Southern side. But in fact, I repeat, such was not the case. The smallest boy who might chance to read this would readily understand that if there had been *real proof* of illegality, violence, or intimidation, or even anything tending to show greater illegality, this committee would have found it. That was its business. It had gone out to prove the illegality of this election, as well as that of others. The best, most reliable, most trustworthy evidence was undoubtedly adduced. Justification for acts which followed this election depended upon proving its illegality. The Congressional committee, Dr. Robinson, Eli Thayer, a moving spirit in the emigrant aid movement, and one of the strongest Northern partisans of that day, and everybody else, admit legality in the precincts not here examined. It was certified that General Whitfield had received 2,238 votes (*supra*); deduct the 484, and we have 1,754. The total combined votes for all the Northern, abolition, or anti-slavery candidates, were 575. Deduct this from the legal Southern vote, and it leaves 1,179 clear majority for Southern views; or, the General's plurality over Flenniken, the next highest candidate, was 874. Where do the other one thousand seven hundred and twenty-nine votes which Robinson, following the majority of the Congressional committee, and others say were "estimated"

as illegal get their illegality? IT DOES NOT ARISE FROM THE EVIDENCE; NO CREDIBLE HISTORIAN CAN JUSTIFY A CLAIM OF FRAUD OR INTIMIDATION WHICH EFFECTED THE LEGALITY OF THIS ELECTION.

Very much more depends, in summing up the positions occupied by the North and the South, upon leaving the impression that "border ruffianism" thrust Southern illegality upon inoffensive Northern settlers in Kansas, than one is liable to think on a superficial glance. The justification for secession finds some of its strongest arguments from the movements of the North shortly before and for years after the passage of the Kansas-Nebraska bill. Those historians who have determined to hold over the South an undeserved odium have not been slow to appreciate this fact. This is one reason why it is that, in the face of the truth, some of those who write school text-books have been by no means alone in misstating or garbling Kansas history. For instance, so prominent a historian as James Schouler, concerning the result of this first Kansas election, has said, "Whitfield, a Tennessean, who held the office of Indian agent, was chosen by fraudulent ballots."³²⁰ This language is susceptible of no other fair construction than that if it had not been for the fraudulent votes, General Whitfield would not have been elected. Mr. Rhodes admits the election of Whitfield, but follows the plan inaugurated by Sherman and Howard in their report to Congress, and tries to leave the impression that this election was not due to a Southern majority, but to the fact that Northerners took so little interest they failed to vote!³²¹ But E. Benjamin Andrews admits that the Northern voters at this election of November 29, 1854, were in a "real minority."³²²

The action of Governor Reeder in delaying the election of the Territorial legislature was not fully seen until future events made it patent. That he was party to a cunningly devised scheme to capture for the North the Kansas Territory, the fact that the legislative election was not called at the time that that for a Congressional representative was, together with his after life, fully show. In the first place, he delayed unnecessarily the organization of the Terri-

³²⁰History U. S., (Dodd, Mead & Co., 1891), Vol. V., 327.

³²¹Rhodes, History U. S., Vol. II., 80.

³²²History U. S. (1895), Vol. III., 22-3.

tory. He was commissioned June 29, 1854, just twenty-nine days after the passage of the Kansas-Nebraska bill. He did not go to the Territory until November. In his special message to Congress, January 24, 1856, the President called attention to this delay, and showed its tardiness by comparing it with Nebraska, created by the same bill, which was organized and at work before Kansas was attempted. The delay was to allow Northern emigrants, sent out by the aid societies, to reach the Territory. The failure to order for an earlier day the election of a legislature had this same object, and he also saw that if the legislature had been elected November 29, 1854, its legality would have gone at once and immediately before Congress in determining the election of the Congressional representative. To all of which the President called the attention of Congress.³²² But the strength of this party, the free-State abolition party, the party destined to nominate and elect Lincoln, was not yet sufficient in Congress to justify relying upon it too strongly; so the election for Territorial legislators was delayed until the following March, nearly one year after the act of Congress organizing the Territory. Gigantic schemes, the product of brain stimulated by unholy ambitions,—of minds afire from misguided consciences,—were being planned; caution marked the craftiness of the projectors.

³²²Congressional Globe, 34 Cong., 1 sess., 297.

IX.

THE KANSAS LEGISLATURE AND OVERT NORTHERN REBELLION.

The Kansas Territorial election of March 30, 1855, and its attendant and consequent results, were the most significant local events in the ante-bellum struggle between the North and the South. The reception given its results proves that the agitation of slavery was carried on by those who hoped thus to secure political predominance for Northern Congressional power. Had the North continued to hold an equal or greater sway in national politics, few would have been the political agitators for "a free State" in the United States; and the stormy and treacherous period in Kansas history would never have marred a page.

At the time of this election, Governor Reeder, a Pennsylvanian, was yet in the gubernatorial chair. He prescribed, pursuant to the act organizing the Territory, some rules for the conduct of this election more strict than those for the first election. He announced somewhat more plainly the requirements to be met to entitle one to vote. The most important was a requirement of *bona fide* citizenship in the Territory with actual intent to continue permanently. Owing to the newness of the country, no time limit had been imposed other than this. He added one election district, making eighteen. There were two classes of those who would compose the legislative body. As is well known, every State legislative body, like Congress, is composed of two branches, upper (in Congress this is the Senate) and lower (in Congress the House of Representatives); in the State we commonly call these bodies State Senate and State House of Representatives; or, the two considered as one: the legislature. In this first Kansas election for Territorial legislature, the Senators were called Councilmen, as they were in the previous new Territories, and the other body was called by the common name of Representatives. There were also other divisions of the Territory; there were fourteen districts, which were nearly the same as the voting districts, called representative districts; and there were ten larger districts called Council (or Senate) districts.

The election was held, the returns made by the proper officers, and properly returned to the governor. The Southern ticket, commonly called the pro-slavery ticket, in a large majority and with slight exception, was declared elected. Governor Reeder and his associates examined the election returns and issued certificates of election to all except a few of the pro-slavery candidates; "and thus complete legality was given to the first Legislative Assembly of the Territory," as the President of the United States pointed out in a special message to Congress.²²⁴ These men who held certificates of election Governor Reeder officially convened, "and communicated with them officially after they were organized and recognized them as a legally and properly constituted law-making body." Their first sessions were held at Pawnee, beginning July 2, 1855; from Pawnee they removed to Lecompton, where they passed laws and adopted a constitution upon which the Territory afterward asked for admission as a State in the Federal Union. Hence, it is generally called the Lecompton constitution. Shortly after the convening of the legislative body, in August, 1855, Governor Reeder was removed from office by the President.

In armed, organized, open, notorious rebellion against this officially constituted and legally recognized body, the free-State or abolition people met at Topeka (September 19th and October 4, 1855), and adopted a constitution, organized a government, pursuant to which this Northern party alone elected a body they called a legislature, and pledged each other their lives and honor to stand by this action and to resist to death what they termed the "bogus legislature." Hence, the legality of the body commonly called the pro-slavery or authorized legislature, which had been convened by Governor Reeder in Pawnee and which removed to Lecompton, becomes a matter of national importance; because, if legal, then those who, in numbers and openly, resisted the laws of that body and did violence to its *personnel*, were in rebellion; and all who aided or encouraged in any way, such as by furnishing arms, money, or moral support, were *particeps criminis*—equally and if possible more guilty than the actors themselves.

Hence, in our inquiry into the regularity and legality of the officially recognized and first Kansas legislature, we shall proceed with our examination of the witness we have already had on the stand,

²²⁴Congressional Globe, 1 sess., 34 Cong., 297.

the one introduced to us by Robinson, Rhodes, and other Northern writers—the evidence filed by the investigating committee sent out by Congress. This and various other Government documents really are the most reliable sources of information extant.

Unfortunately, it will not be improper to repeat, the claims of Hons. Howard and Sherman, who made what we call the majority report, are not always borne out by the evidence; and, so, many of their statements are extremely unreliable. I have already called attention to the fact that many thousands of this report, unaccompanied by either the minority report or the evidence, were scattered throughout the North; and I am inclined to believe that this *ex parte* distribution of the document did no little harm. Of course, such writers as Dr. Robinson, Eli Thayer, Dr. Edward Everett Hale (whose recent advanced birthday marks many years of much usefulness), and the others of their co-laborers who were prominent actors in the great drama under investigation, have no interest in telling the whole story, but do have reasons for letting the assertions of the majority report stand as original and accurate sources of history. Notice, too, how some of the statements of Messrs. Sherman and Howard read like some histories. Undoubtedly, in their report we find the source of the usual inaccuracy of statement and conclusion touching the Northern attitude as manifested through her work in Kansas. Among other things said concerning the election in question, they say that companies of men from Missouri “were arranged in regular parties, and *sent into every council district in the Territory, and into every representative district but one*. The numbers were so distributed as to control the election in each district.”³²⁵ But other admissions tend to impeach their own statements. In discussing the tenth election district they say, “This and the eighth district formed one representative district, and was the only one in which the invasion from Missouri did not extend.” And in discussing the twelfth district they say, “The election in this district was conducted fairly; no complaint was made that illegal votes were cast.”³²⁶ Under the head “seventeenth district,” page 29, they say, “The election in this district seems to have been fairly conducted, and [is] not contested at all. In this district the pro-slavery party

³²⁵Majority Report, 9; Rep. Coms., 36 Cong., 2 sess., Vol. III., p. 4.

³²⁶*Ib.*, 23.

had the majority."³²⁷ Neither the evidence gathered by this investigating committee, nor any reliable historical source, bears out the charges of fraud, intimidation, and illegality brought against Missourians or the Southern people. The depositions of the hundreds of witnesses upon the validity of this and other elections make interesting reading, but even an abridgment would carry us much beyond the limits of this discussion. But enough can be shown to see the legality, lawfulness, and fairness of the election of the Lecompton legislature, which was commissioned, convened, and recognized by the then rightful Territorial governor. As in the first election, so in this,—there was fraudulent voting; but as in the first election, so in this,—abolitionists took the initiative, and Southern men felt self-defense justified their action. However, we do not stop here to apologize for the action of the Southerners; the unimpeachable fact still remains that the illegal votes cast did *not* change the result; the Lecompton legislature was chosen by *bona fide* legal voters; and perhaps it is not too much to say that not a man was intimidated or prevented from voting in the entire Territory in connection with this election.

Mr. Oliver, author of the minority report, presents "compiled tables, comparing the votes cast for the Free-State ticket in the several council districts and representative districts in the Territory. This is taken from tables exhibited by the majority. It is part of their own showing. In it will be seen the number of votes cast in each district for the Free-State tickets, compared with the number of votes at the time the census was taken in each respectively; and from this it will appear that the Free-State votes fell far short of being sufficient to elect a majority in either branch of the legislature, even if there had been no increase of [Southern] votes by *bona fide* settlers, between the time the census was taken and the election. [It will be remembered that no one then or since ever claimed more Free-State votes than were reported. The charge was that more Southerners than were entitled to vote had voted.]

"But the current testimony of a number of witnesses establishes the fact conclusively . . . that the emigration of *bona fide* settlers from the Southern States was greater in the month of March after the census was taken than in any equal time previous."³²⁸

³²⁷Minority Report, 73.

³²⁸Minority Report, 74.

It will be remembered that a majority of this committee admit, and so do Dr. Robinson and by far the greater number of all writers, that at the first election the Southern people were in the majority. After this first election Governor Reeder took a census, and claimed to have reported the number of legal votes in each district. If we grant that each vote returned for the free-States candidate was legal, the table above mentioned establishes clearly that the majority of the votes shown to be *bona fide* by this census, taken as it was by Northern sympathizers, was cast for the Southern men, who were afterward convened in the Lecompton legislature. Here is the table:

Number of Representative Districts.	Number of Votes shown to be in each by Census.	Number of Votes given for Free State Ticket.	Number of Representatives to be elected.	Number of Council Districts.	Number of Votes shown to be in each by the Census.	Number of Votes for Free State Ticket.	Number of Councilmen.
1	97	19	1	1	466	255	2
2	369	253	3	2	212	12	1
3	212	12	2	3	193	44	1
4	101	4	1	4	442	156	2
5	92	49	1	5	253	...	1
6	253	35	2	6	201	140	1
7	242	152	4	7	247	...	1
8	99	120	1	8	215	60	1
9	102	26	1	9	208	...	1
10	83	...	1	10	468	66	2
11	47	54	2				
12	215	...	2				
13	203	...	2				
14	335	59	3				

"This shows that the aggregate of the votes cast in the Territory for the Free-State ticket fell short of 800, while the census shows that there were 2,905 legal votes in the Territory in the February previous. The Free-State ticket, therefore, did not receive one-third of the legal votes of the Territory, even if all be excluded from the account who emigrated to the Territory after the census was taken.

"This fact was apparent to the majority of the committee. But they attempted to break its force in two ways: by comparing the names on the poll-books with those of the census returns, from which comparison they argue that only a fraction over 1,300 of the legal voters upon the census returns voted at that election. And,

second, they argue that the abolitionists were prevented from voting by violence, threats, and intimidation.

"On the first point, it is unnecessary to say more than that no comparison between the poll-books and the census return was made except by districts. Between the time of taking the census and the election, settlers had changed their residence from one part of the Territory to another, and doubtless [which can now be shown to be exactly correct] voted in a different place from that in which they were registered when the census was taken. [As they legally had a right to do, and which, in fact, they did do.] The committee did not compare the names on the poll-books with the names on the census returns throughout the Territory, and the comparison alluded to by the majority, therefore, by no means proves what they claim for it.

"On the second point . . . there is no evidence that any violence was resorted to, or force [or intimidation] employed by which men were prevented from voting at a single election precinct in the Territory, or that there was any greater disturbance at any election precinct than frequently occurs in all our State elections in exciting times."²²²

One reason why the free-State vote was not larger in this election was shown to be because many free-State men voted the Southern ticket. For instance, on page 160 of the evidence, a prominent and honorable witness says, "I know a great many Free-State men who voted that day the Pro-Slavery Southern ticket. . . . I saw them vote myself." This is not hearsay; it is positive; and most of all, it is significant. In the first election the Southern men were and are admitted to have been in the majority and to have elected their ticket; and at this election they draw strength from the enemy.

After his removal from office in August, 1855, Governor Reeder began to consort with the abolitionists who were holding conventions, and organizing an opposition government which passed pseudo laws, and attempted to crush the legal government by force. He then publicly denounced the very legislature which he had so recently acknowledged. The now ex-governor, and Doctor C. Robinson, and others, decided that they could succeed, since the failure of their fraudulent efforts at the polls, as we shall see later, only

²²²Minority Report, 74-75.

by forming a free-State constitution, and securing the aid of the North to enforce and carry out to the "bloody issue" their position.³²⁰ The ex-governor consented, or most likely sought, to become a candidate for Congress under the usurping abolitionists. At the election which they illegally held, and in which abolitionists or Northern free-State people only participated, he was said to have been elected.

On August 1, 1856, eighty-eight of the Republicans in Congress, who were either conniving at or abetting the Kansas illegalities, "voted for the admission of Andrew H. Reeder as a delegate from Kansas, although he had received at the election authorized by law not a solitary vote."³²¹ A letter written by Reeder, found on the streets of a Kansas town, and which neither he, the party to whom it was written, nor any one else, ever attempted to disprove, is an open confession meant to be private that this opposition to the Le-compton Territorial government, was sedition. Even the ring-leaders in this rebellion never *sincerely* questioned the validity of the Le-compton legislature. In the letter in question Reeder said, "As to putting a set of laws in operation in opposition to the Territorial government, my opinion is confirmed instead of being shaken; . . . We will be, so far as legality is concerned, in the wrong; and that is no trifle in so critical a state of things, and in view of such bloody consequences. . . . They [the United States authorities] say they cannot sustain us in the position of resisting the Territorial government; and you will find, I think, that Douglas will also take that ground. But I want you to understand, most distinctly, that I do not talk thus to the public, or to our enemies. I may speak my plain and private opinions in letters to our friends in Kansas, for it is my duty; but to the public, as you will see by my published letter, I show no divided front."³²²

The reasoning of the majority of the Congressional investigating committee in order to find fraudulent votes from the election returns as compared with the census, is most interesting and without a parallel in sophistry. It shows the desperation of the case for these rebels when it is seen how they hugged to the census taken in January and February, from one to nearly two months prior to the

³²⁰See deposition, Evidence, 87.

³²¹Repts. of Commts., 1 sess., 36 Cong., Vol. II., No. 255, p. 44; Journal Ho. Rep., August, 1856.

³²²Evidence, 1134.

election. Since their contention was not borne out by the proof, something must be found, and so they deduct from the number of votes returned by the election officers, the number of votes which the census enumerator said were in each district, and insist that the difference are the illegal votes, which they claim were cast by Missouri ruffians. There might have been some shadow of reason in this for a country whose voting population was not changing as was that of Kansas. When we remember that both the evidence taken by the Congressional committee and all early and late historians admit that at the first election the Southern people were in the majority, and then remember that a large immigration got to the Territory in time to become *bona fide* settlers and legal voters, we at once see that the claim for this large illegal vote is entirely untenable. More than this; Wm. Phillips, at the time located in Kansas as the correspondent of the New York *Tribune* (he and his paper both strong abolitionists), in his book published in 1856, speaking of this same election, says, "By the 30th of March many spring emigrants could, and *did*, get into the territory, while but very little of the Eastern [abolition] emigration got to the territory until late in the season."³³³ Speaking of the same census Mr. Phillips also says, "There were only 2,905 votes in the territory when the census was taken, but as the election occurred on the 30th of March, the population had considerably increased."³³⁴ Phillips continued to remain a citizen of Kansas, and, many years after he wrote this, was elected one of the Kansas representatives to Congress; Noble L. Prentiss says he was the "best known member of the *Tribune* staff."³³⁵

Rev. Richard Cordley, writing, after years spent among the people of Kansas, from both personal knowledge and information, in 1895, says, "This number [2,905, as reported by the census] was probably increased by March 30th, as immigration began very early, and quite a number of actual settlers came into the country before the election."³³⁶

In the evidence gathered by the investigating committee we find some valuable light which shows that a large number of former Missourians had moved early into the Territory, but were away from

³³³Conquest of Kansas, 70.

³³⁴Ib., 69.

³³⁵Kan. Miscellanies, 95.

³³⁶A History of Lawrence, Kans., 28.

their new homes when the census enumerators were at work. This accounts for the names of many former Missourians on the poll-books whose names did not appear in the census returns, and who were *bona fide* residents of the Territory and legal voters. Under his oath an ex-justice of the peace under Reeder, and who came to Kansas from Minnesota, says, "The people were also dissatisfied in regard to the time when the census was taken, which was in mid-winter, when many of the actual residents were in Missouri, to pass the cold weather and settle up their business, intending to return into the Territory in the spring; and those persons were not enumerated in the census that was taken, because the census takers said the governor had ordered them to take the names of none but those then in the Territory."³⁸⁷

And more yet: The election officers who received and certified the votes, in both these early and Northern challenged elections, were largely composed of abolition or free-State men. Especially was this true in the second election March 30th, at which the legislature, which was repudiated by the North, was elected. In this election two of the three election officers at each voting place were free-State men. This accounts for the large illegal Emigrant Aid vote cast by men just from the North; and it leaves no doubt as to the absence of fraud by the Southern party in conducting the election, and gave to the Northern party every reasonable opportunity to prove intimidation at or about the polls. Certificates of election to all the members of the authorized or Lecompton legislature, except the few whose election Governor Reeder set aside, were issued upon the authority of and by virtue of the returns of men about three-fourths of whom were opposed to the Southern party. In his deposition before the Congressional committee, Governor Reeder says that he took especial care to see that at such places as he anticipated illegal Missouri votes, two of the three election officers should be of the Northern or anti-slavery party; and that about one-third only of the officers throughout the Territory on that day were pro-slavery men.³⁸⁸

Concerning this election of March 30th, some very distinguished Northern writers have given us some very strange things. Not the least of the strange statements is found from the pen of Edward

³⁸⁷Evidence, 526.

³⁸⁸See his statement in Evidence, 935.

Channing, Ph. D., assistant professor of history in the Harvard University. He has this to say: "At all events, the majority of the *bona fide* settlers were favorable to freedom. To counteract their votes, hundreds of Missourians crossed the border into Kansas to vote. The upshot of the whole matter was that the free-state voters refused to vote. The territorial legislature thus fell into the hands of the pro-slavery men"; which result, he further says, "was brought about by fraud and intimidation."³³⁹ Notice his language: "The majority of the *bona fide* settlers." This leaves the impression that such majority existed first, last, and at every election; if this is what he means to say, it is a very unjust and inaccurate statement. But it is not the strangest thing he seems to say. "The free-state voters refused to vote"—"the legislature *thus* fell into the hands of the pro-slavery men." Does Doctor Channing mean to say that the free-State voters, owing to Southern fraud and intimidation, refused to vote in the Territorial legislative election? I submit that his words are susceptible of no other reasonable construction. The inaccuracy—be it a result of want of knowledge of the facts or a result of hasty research or what it may—is so unjust to a correct estimation of the history of that period—so misleading at least in its manner of statement—that it is no wonder that the South points a finger of interrogation at the way some writers have mangled her history.

E. Benj. Andrews thus arraigns the Missourians for their conduct in this election:

"The vote against them [Northern settlers] on the last occasion, however, was largely deposited by Missourians who came across the border on election day, voted, and returned. This was demonstrated by the fact that there were but 2,905 legal votes in the Territory at the time, while 5,427 votes were cast for the pro-slavery candidates alone."³⁴⁰ This shows inaccuracy, to say the least of it; because (1) he ignores the fact that the 2,905 votes were those which the census had found, or claimed to have found, and that this census was taken, over part of the Territory at least, thirty to fifty days prior to the election; and that from that time up to the election numerous *bona fide* settlers arrived, and as I have elsewhere mentioned, that there was evidence to show that this immigration was

³³⁹The United States of America (Macmillans, 1896), 248.

³⁴⁰History U. S. (1895), Vol. III., 223.

largely Southern. Hence, to say "2,905 legal voters at the time," is incorrect; (2) he takes the "*estimate*" of illegal votes as *estimated*—not proven, mind you—by the majority of the Congressional investigating committee, and the value of this majority report I hope will be correctly determined by the time I shall have done with it. Mr. Schouler has fallen into a similar error.³⁴¹

There is no ground for the claim sometimes made that Governor Reeder issued certificates of election to the pro-slavery men who claimed the election of March 30th because he feared to refuse; because he did carefully examine the returns and all facts connected therewith. In doing this he thought he detected fraud in some of the districts, and accordingly set aside the elections in those districts, and order that the vacancies be filled by another election which he appointed to be held May 22, 1855. Mr. Schouler mentions this fact, and then says, "At supplementary elections, held on the 22d of May, the free-State men easily filled the vacancies by men of their own choice. But the territorial legislature still stood pro-slavery by more than two to one."³⁴² To say that I am astonished at this statement does not describe my surprise. Such histories from so high authority go out into the world potent factors in forming public opinion. Naturally the inference is that if so soon after March 30th Northern men carried important districts then, under similar circumstances, they should have done so at the previous election, and hence were a *bona fide* majority. As a whole, this supplementary election can be taken as indicating nothing whatever as to the relative strength of the two parties. This is undoubtedly true because Southerners refused to vote except in the sixteenth district, at Leavenworth. This action was based upon their claim that Governor Reeder had in some way exceeded his authority in setting aside the former election. Whether they were right or wrong in this contention has nothing to do with the results of the voting. We have the majority report as evidence for the fact that except in the Leavenworth district not one pro-slavery vote was cast (p. 36) in this supplementary election. No one ever even thinks of claiming this lack of pro-slavery votes was for want of actual *bona fide* pro-slavery residents, because they were actually

³⁴¹History U. S., Vol. V., 328.

³⁴²History U. S. (Dodd, Mead & Co., 1891), Vol. V., 329.

in numbers in each district and entitled to vote at each respective voting place, as the evidence clearly discloses.

Concerning the Leavenworth district Howard and Sherman in the majority report say, "It is impossible for your committee accurately to decide which party would have had a majority of the legal votes of this district, had no illegal votes been polled, on account of the difficulty of determining who were legal and who illegal voters at that election." Most astonishing language, this—the more so when we read the evidence. They—this very committee—examined as to this Leavenworth district nine witnesses. As nearly as can be, I give respectively the words of each as to its legality, fraud and by whom practiced, and as to which candidate *had* "a majority of the legal votes of this district." Taken in the order in which they are found in the table of contents:

1. Same candidates elected as on March the 30th; "I never heard a charge that the election of 22d of May was carried by illegal votes. They gave it up, considering that they were in the minority in this district, that the pro-slavery party was the strongest. I did not see many Missourians here on the 22d of May." A few Missourians voted; and about thirty non-resident boat hands voted the free-State ticket—witness could be positive because the two tickets were on different colored paper; as to illegal votes "it was a fair stand off." (Evidence, p. 52.)
2. "There was no crowd of strangers here on that day, and the election passed off quietly. I do not recollect of hearing an angry word that day." "I think the number of legal votes was larger on the 22d of May in this district than at the previous March election; and my opinion is that the majority of the pro-slavery party had increased." (Ib., 525.)
3. "I suppose there were about 715 votes polled at this election. [*The exact number, see poll-book, Majority Report, p. 36.*] I believe they were nearly, if not all, legal voters. . . . I saw probably six or seven Missourians on the ground. . . . I believe that the poll-book shows about the strength of the parties." [The poll-books show 560 for the pro-slavery ticket, 140 for the free-State, 15 "scattering." (*Majority Report, p. 36.*)]. Some free-State men refused to vote; some non-resident votes taken, cannot say how many; witness was a free-State man and one of the election judges, says he was willing for all who voted to do so because he thought it lawful and right. "I do not know of any free-State men being deterred from voting that day on account of his political views, and if they had wanted to vote they had an opportunity to, so far as I know." (Evidence, p. 529.)
5. "There were a great many persons that voted that day that I believe were non-residents of the Territory. . . . free-State men did not all vote. . . . pro-slavery men all voted, or generally so. . . . I saw nothing to deter me from doing my duty as judge of the elections." (Evidence, pp. 524-25.)
6. Witness was a free-State man, and voted that ticket; heard two men whom he took to be from Missouri

say they voted; election quiet; no crowd. "I think there was a free-soil majority on the 22d of May here; but that is my notion only. . . . I do not pretend to say that such was the case." (Ib., 1140-1-2.) 7. Great many Missourians in town, but witness saw none of them vote; heard some say they brought over parties to vote. "I noticed no disturbance or effort to control the vote of any one. I was not at the polls at all. I know but little of what was going on." (Ib., 527-8). 8. From the poll-books witness identifies 32 names who, he says, resided in Missouri at time of this election. Witness was a Missourian who voted and returned to Missouri; "election quietly conducted." (Ib., 563-4.) 9. Identifies 21 names on the poll-books who, he says, lived in Missouri at time of election, all but eight or ten being those pointed out by former witness; many lived in Kansas at time witness gave his deposition, May 30th; many Missourians who voted had claims and afterward moved their families on them. (Ib., 530.)

Any fair man must admit that this evidence—a correct epitome of which I have given—shows not only by its greater weight, but almost without a contradiction, that there were twenty to thirty illegal free-State votes, and from twenty-five to thirty-five illegal Southern votes; it shows that the witness Adams was correct when he said that "it was about a fair stand-off." Taking the evidence in all its bearings, give it the benefit of all uncertainty, and we must admit that the pro-slavery candidate in the Leavenworth district had a legal majority of at least *over* three hundred *bona fide* legal Southern votes. This is the evidence which Howard and Sherman had before them—the only thing by which legally they could have been guided—their conclusion is a fair sample of their treatment of evidence. The application of the facts to Mr. Schouler's statements concerning this supplementary election is easy. If he had anything before him to invalidate this proof, it does not appear in the present light of history.

Those who were upon Kansas soil were by no means all who participated in her affairs. Her history from 1854 to 1859 is no more local than is that of the Civil War. Sedition and rebellion in Kansas found their source and strength in the North. Her early elections with all their ugly blemishes found the cause of these defects in the aggressions of such organizations as emigrant aid societies, the prime object of which was to create a free State for white men only, and in the fuel which the old-time abolitionists, led by Philips and Garrison, continually fed the public mind. The free-State abolitionists wanted to destroy slavery that they might occupy its room; the Garrison abolitionists struck at slavery

through a blind and perverted philanthropy which they carried so far that they became the most bitter and pronounced disunionists the country ever produced. They were arrant rebels against the Government of the United States, but lacked the physical courage to carry out their doctrine; while they had the unscrupulousness to attack the legal rights of the South with any covert means in their power. The free-State abolitionists became the aggressive leaders and were rapidly gathering all anti-slavery advocates into their ranks. Since it was these last who led the North in the latter fifties, their acts at the time of and those following the Kansas elections cannot be correctly estimated without following rather closely the free-State movement. This will lead me to treat more definitely the extent and scope of the rebellious movement in Kansas.

Isaac T. Goodnow, in his overstrained laudatory introduction to Doctor Charles Robinson's book, *The Kansas Conflict*, June 1, 1891, says, "While Eli Thayer, providentially the founder of the New England Emigrant Aid Company, was flying over the North like a flaming meteor, stirring up the people for money and recruits in his grand crusade for the freedom of Kansas, Charles Robinson, his trusty lieutenant, wonderfully prepared for it by a like providence by his California experience, was sternly holding the helm amid the storms and breakers in Kansas." (XIV.)

On page 33 of his *Kansas Crusade*, Mr. Thayer says, "... I was speaking all the way from Penobscot to the Schuylkill, and from the seaboard to the lakes. It was my mission to raise men and money for the security of freedom in the Territory, and to combine the Northern States in this work. I did not doubt Robinson's ability or fidelity in the use of means."

Here, then, is positive and direct information for the whole North as to the purposes and movements in and toward Kansas. This concern thus organized by Thayer and others was legalized, advertised, and in a high state of ferment before any steps were taken in Missouri or other Southern States to offset its influence. It was chartered by the legislature of Massachusetts, April, 1854, *several days before* the President had signed the bill opening the Kansas Territory. It was re-chartered in the spring of 1855 under the name of the New England Aid Company. Its capital stock was started at \$1,000,000, though the charter members circulated a report that the capital was \$5,000,000; and, in truth, the charter pro-

vided for any capital "not to exceed \$5,000,000."³⁴³ Of the capital stock there was at once paid or donated ninety-nine thousand dollars. As previously noted, Eli Thayer was president, Amos A. Lawrence, J. M. S. Williams, and Thomas Webb, and Prof. Sellman of Yale University, were either officers or active members; and eight hundred prominent Northern men had subscribed the capital stock; and later thousands aided the organization or came under its influence. This movement had behind it men of wealth and education. Especially was it boasted that "Amos A. Lawrence, J. M. S. Williams, and J. Lowell, of Boston, are merchant princes."³⁴⁴

On March 12, 1856, the Senate Committee on Territories (the one from which I have been quoting was a special House committee) made a report on the Kansas troubles, and justly attached a great measure of the blame for Kansas conditions upon Northern societies operating to foster the abnormal settlement of Kansas. Nettled at this report, the New England concern issued a verbose circular, dated Boston, June 17, 1856. Mr. Lawrence went as a witness before the House investigating committee to endeavor to vindicate his organization, and to endeavor to prevent its criminal connection with the Kansas sedition and rebellion being proven. He files his circular and made it a part of his testimony. He says he read it before it was printed, and that "there is nothing in it but what is true."³⁴⁵ When we examine the circular we are struck with the recklessness exhibited by the management in an unsuccessful effort to escape responsibility for the bloodshed incident to Kansas politics. This circular asserts that associations were formed in Missouri, and "in active operation to interfere in the internal affairs of the Territory in a manner neither legal nor justifiable," before the concern headed by Mr. Thayer and Mr. Lawrence had an existence. Notice, Mr. Lawrence does not say that this circular contains nothing but what he *believes* to be true—he says "nothing in it but what is true."³⁴⁶ He admits that this same identical concern began work under another name: "the subscriptions of stock were made, and action had, until the spring of 1855, when a new

³⁴³Thayer, *The Kansas Conflict*, 27.

³⁴⁴App. Cong. Globe, 34 Cong., 1 sess., 150.

³⁴⁵Evidence, 875.

³⁴⁶Ib., 875.

charter was obtained."³⁴⁷ The truth is, that this concern, "by methods neither legal nor justifiable," *actually, actively*, began April, 1854.³⁴⁸ In the majority report to the House it is shown that the very first Southern organizations (and these without capital and with but a very limited local organization), or, as the Report calls them, "secret political organizations," or slavery "lodges," "Blue Lodges," etc., were organized "about the time that Governor A. H. Reeder reached the Territory," which was "October A. D. 1854."³⁴⁹ Then from April, 1854, to October the Northern organization had been diligently gathering money, and "like a flaming meteor arousing the North." In fact, emigrants under the organized leadership of the politicians were on their way to Kansas almost as soon as the President had signed the bill opening Kansas to both North and South. They had been arriving long before counter movements in the South were started. Colonel S. E. Tapan, who was the clerk of the so-called legislature which the North supported in opposition to the true Territorial legislature, and who were attempting to deliberate when dispersed by United States soldiers aided by civil officers,³⁵⁰ writing to the *Denver Tribune*, in 1883, says, "When the first party of emigrants [of whom the writer was one] to Kansas from New England—as early as July, 1854, reached the city of St. Louis en route . . ." they were met by Doctor Chas. Robinson, the accredited agent of the New England Emigrant Aid Company, who at once led the party to Lawrence.³⁵¹ Sparks says this party left the North in June.³⁵² The very earliest meeting held by Southern people to consider the impending movement, is placed by Wilder on July 29, 1854, on which day he says the "Platt County Self-Defensive Association" met at Weston, Missouri.³⁵³ No counter move was attempted by this local body, nor was any from any other Southern source, as stated, attempted until October.³⁵⁴ On the very next day after this meeting at Weston this

³⁴⁷Ib., 873.

³⁴⁸Thayer, *The Kansas Crusade*, 25-6; N. L. Prentiss, *History Kansas*, 45.

³⁴⁹Majority Report, 3.

³⁵⁰Sen. Docs., 3d sess., 34 Cong., Vol. III., No. 5, p. 65 *et seq.*; Sparks, *Exp. Am. People*, 360.

³⁵¹Intro. Kans. Conf., XX.

³⁵²*Exp. Am. People*, 357.

³⁵³*Annals of Kan.*, 37.

³⁵⁴2 Rhodes, *History U. S.*, 78.

Northern party arrived in Lawrence, and it was their well-known coming that caused the Weston meeting. Even before the passage of the Kansas-Nebraska bill, the idea of an abnormal emigration movement for political power, had its Northern origin.³⁵⁵ The petition to the legislature for a charter of the first emigrant organization was circulated in March, 1854.³⁵⁶ This charter granted by the Massachusetts legislature declared its object to be "for the purpose of assisting emigrants to settle in the West." Its author said to the legislature: "This is a plan to prevent the forming of any more slave States. If you will give us this charter there shall never be another slave State admitted into this Union."³⁵⁷ "The charter was signed by the governor on the 26th day of April, and took effect immediately," says Rev. Edward Everett Hale. He then tells us that those named in it and others interested met and accepted the charter on the 4th day of May, and appointed a committee "to report a plan of organization and system of operations."³⁵⁸ Reporting immediately, this committee proposed (1) that their directors "contract immediately, with some one of the competing lines of travel, for the conveyance of twenty thousand persons from Massachusetts to that place in the West which the directors shall select for their first settlement."³⁵⁹ They alleged that their movement determines "the institutions of the unsettled territories";³⁶⁰ they declared that the effect of the movement would be that "by dispelling the fears that Kansas will be a slave state, the company will remove the only bar which now hinders its occupation by free settlers";³⁶¹ they boldly proposed "to plant a free State in Kansas to the lasting advantage of the country and to return a handsome profit to the stockholders upon their investment."³⁶² Notwithstanding Mr. Lawrence's affidavit to the contrary, there can be no legitimate historical doubt that all this was published to the world months before any similar movement or "Blue Lodge" or-

³⁵⁵Thayer, *The Kan. Crusade*, 25.

³⁵⁶E. E. Hale, *Kansas and Nebraska* (1854), 219.

³⁵⁷*The Kansas Crusade*, 26.

³⁵⁸*Kansas and Nebraska: An Account of the Em. Aid Companies* (Boston, 1854), 220.

³⁵⁹*Ib.*, 223.

³⁶⁰*Ib.*, 226.

³⁶¹*Ib.*, 228.

³⁶²*Ib.*, 225; Thayer, *The Kan. Cru.*, 28.

ganization in Missouri or elsewhere in the South. Dr. Hale, in his preface to "Kansas and Nebraska," says, "I have . . . been favored with personal narratives by the agents of the Emigrant Aid Company. . . . Since the formation of the Emigrant Aid Companies, I have been deeply interested in their success." This preface was dated, "Worcester, Mass., Aug. 21, 1854." The book was immediately published in Boston. These statements of the author disclose that (1) the Emigrant Aid Company had already had agents in Kansas who had returned to Massachusetts; (2) more than one Emigrant Aid Company was then and prior thereto had been actively in *operation*.

Not only this evidence is furnished us by Dr. Edward Everett Hale, but he gives us a most valuable bit of truth to the effect that at that time no threats against abolitionists were being made by Southerners in the West, that there was no reason for the Northern emigrant to fear bodily harm, and that whatever had been said in the West against abolitionists had been "mildly" stated. Hear him: "It is the universal custom, at the West, for settlers in the same neighborhood to enter into associations for mutual protection; . . . An effort has been made, particularly by one person, to induce such associations to refuse to admit 'Abolitionists,' under the pretext that they would wish to 'run off' slaves from their neighbors' lands. Resolutions to this effect have been passed in one or two instances, but have been rejected or neglected more often. When passed they have been mildly stated, and have amounted only to a resolution to support 'slaveholders in their legal rights'; disavowing any intention to interfere with persons who do not attempt to violate those rights, as the future laws shall state them."³³ This is the only charge that he can find against pro-slavery people in either Missouri or Kansas,—and this was some time after the free-State movement had started from the North.

Yet Mr. Thayer started his well-armed and highly protected emigrant bands sweeping down from the North with the boast, "That we should put a cordon of free States from Minnesota to the Gulf of Mexico, and stop the forming of slave States. After that we should colonize the northern border States and exterminate

³³Ib., 236-7.

slavery.”³⁶⁴ Within a few pages of where he testified to the mild and peaceful actions of the Southern emigrants in that early day of August, 1854, the now venerable Dr. Edward Everett Hale sent a similar boast to them and to the South: “Every indication now points to victory . . . It is gained unless the great principles of association in a great cause fail as it never failed before. . . . That victory will be won!”³⁶⁵

Thus was the issue forced upon the South; thus did wealth and superior force endeavor to throttle the local affairs of existing and prospective States. Fire and sword were destined to be their hand-maid, yet high officials of the movement resorted to perjury and unblushing prevarication to cover their movements and hide from the world the true history of the causes leading to the bloody close of America’s second great epoch. Follow the record, and let us see that this is true; and more, let us see that the usual version of the Kansas story rests upon a rotten foundation.

In the Journal of the Rev. Theo. Parker, of Boston, dated April 2, 1854, he says, “Saw the Kansas party go off . . . about forty, nearly half women and children. There were twenty *Sharp’s Rights* of the People in their hands, of the new and improved edition, and divers Colt’s six-shooters also, . . . Those rifles and pistols were to defend their soil from the American Government, which wishes to plant slavery in Kansas.”³⁶⁶

In his deposition, p. 873 *et seq.*, in the Evidence of the Cong. report, Mr. Lawrence asserts that no firearms were ever bought by the Emigrant Aid Company, and that this company has never “interfered with the internal affairs of [Kans.] Territory”; and that as a “company” it was not opposed to the Kansas-Nebraska act, and that it meant to settle Kansas with “an intelligent” population.³⁶⁷ In the memorial of the same company over the signature of J. M. S. Williams, S. Cabot, Jr., L. B. Russell, C. J. Higgins, and W. B. Spooner, which was filed before Congress in protest against the report of March 12, 1856, by the Senate Committee on Territories, they allege, “This company has never invested a dollar in any of the implements of war.”³⁶⁸

³⁶⁴The Kan. Crusade, 32.

³⁶⁵Kansas and Neb., 247.

³⁶⁶Frothingham, Life of Theo. Parker, 435-6.

³⁶⁷Sp. Cong. Rep., Ev., 876.

³⁶⁸Appendix Cong. Globe, 1 sess., 34 Cong., 853.

In his *Kansas Conflict*, page 123, Charles Robinson says that "Geo. Deitzler was sent with a letter to Eli Thayer [president of this same company of which Mr. Lawrence made the above statement under oath] for one hundred Sharp's rifles." On the same page Mr. Deitzler says, "Only a few days after the election of March the 30th, . . . I presented my letter to Mr. Thayer [at Worcester, Mass.]. . . Within an hour after our arrival in Boston, the executive committee of the Emigrant Aid Society [of which Mr. Lawrence spoke as above] held a meeting, and delivered to me an order for one hundred Sharp's rifles. . . . The guns were packed on the following Sunday, and I started for home on Monday." He arrived in Lawrence, Kansas, about the last of April, scarce a month after the election. The guns were labeled "books," and Mr. Deitzler calls them "Beecher Bibles." It was after this delivery to Mr. Deitzler of guns that Mr. Lawrence made the above statement. In July, 1855, as Mr. Robinson sets forth in his book, he sent "Maj. J. B. Abbott to Boston for guns" to equip a company of the rebels which Abbott had raised and drilled near Lawrence. On the letter written by Robinson and carried North by Abbott, this endorsement was made:

OFFICE OF NEW ENGLAND EMIGRANT AID Co.,

No. 3 WINTER ST., BOSTON, Aug. 10, 1855.

Dr. Chas. Robinson, within mentioned, is an agent of the Emigrant Aid Company, and is worthy of implicit confidence. We cheerfully recommend Mr. J. B. Abbott to the public.

C. H. BRANSCOMB, Sec. pro tem.*

Mr. Robinson continues:

"Major Abbott also procured a mountain howitzer with ammunition, as well as Sharp's rifles. During the spring and summer several invoices of arms were received for different parts of the Territory, nearly all furnished through the assistance of persons connected with the Aid Company. The following letter will show the interest taken by Amos A. Lawrence, one of the most earnest and efficient friends Kansas ever had:

'Boston, Aug. 11, 1855.

DEAR SIR:

Request Mr. Palmer to have one hundred Sharp's rifles packed in casks like hardware and to retain them subject to my order. Also to send the

*Kan. Conf., 124-5.

bill to me by mail. I will pay it either with my note, according to the terms agreed on between him and Dr. Webb, or in cash, less interest at seven per cent.

Yours truly,
 Mr. J. B. Abbott,
 Care A. Rogers, Hartford, Conn.' AMOS A. LAWRENCE.

'Boston, Aug. 20, 1855.

MY DEAR SIR:

This installment of carbines is far from being enough, and I hope the measures you are taking will be followed up until every organized company of trusty men in the Territory shall be supplied. Dr. Cabot will give me the names of any gentlemen here who subscribe money. . . . I promise them it shall be repaid in cash or in rifles. . . .

You must dispose of them where they will do the most good, and for this purpose you should advise with Dr. Robinson and Mr. Pomeroy.

Yours truly,
 Mr. J. B. Abbott,
 Care A. Rogers, Hartford.' AMOS A. LAWRENCE.

'Boston, August 24, 1855.

MY DEAR SIR:

The rifles ought to be on the way. Have you forwarded them? The Topeka people will require half of these.

Yours truly,
 Mr. J. B. Abbott.' AMOS A. LAWRENCE.

The reader may be able to reconcile these facts with the statements in Mr. Lawrence's deposition; the writer cannot. In a note, the historian Rhodes says, "Amos A. Lawrence was a gentleman of wealth and social position in Boston; was treasurer of the Emigrant Aid Company; was personally a large contributor to it."⁸⁰⁰

No wonder Southern people lost confidence in Northern Congressmen who were backing the Kansas rebels, when, in the face of such facts, which were either then known or of which they remained in wilful ignorance, men like Representative Trafton, of Massachusetts, would defend these organizations as did he on March 12, 1856, when in a speech in Congress he said, "Allow me to say that there has never been purchased by the emigrant aid society a single musket or rifle, or arm of defence of any kind whatever. They have never done this thing charged."⁸⁰¹ Or, on February 18, 1856,

⁸⁰⁰History U. S., Vol. III., 82.

⁸⁰¹App. Cong. Globe, 34 Cong., 1 sess., 151.

when in the United States Senate, Henry Wilson, also of Massachusetts, said, "Sir, the emigrant aid society of New England has violated no law, human or divine; they have not performed illegal actions or any act inconsistent with the obligations of patriotism, morality or religion."⁷¹

But since it was so, why all this marshaling into Kansas of the munitions of war? Why the great urgency thus shown? The histories are full of stories of invading, armed, "murderous" bands of Missourians; and we are taught that these guns were for protection of life and property against an aggressive Southern movement; but follow the record and let the sober light of the facts in their proper order guide us to a right conclusion—even if it be to find that rebellion—but let each see for himself.

Up to the time these implements of war went West, not a Northern man had been hurt, or seriously threatened, on account of his voting or politics; nor had any violence been done or offered to any quiet, peaceable, free-State man. Up to the time that we see all this rush of guns from the North not a man in the whole Territory had been killed or in any way assaulted; no fighting by reason of politics, and, in truth, remarkably little under any circumstances considering the excitement and frontier life,—had occurred at a single voting place in the entire Territory. The first man killed lost his life in the fall of 1855, November 21, months after the North had gathered in battle array against lawful authority. This first killing was that of Dow, a free-State man, by Coleman, a pro-slavery man. The homicide, however, had nothing whatever to do with politics. It entirely grew out of a dispute over a land claim.⁷² Just at that event we discover the initials of open conflict. Sheriff Jones, elected at the March election, the lawfulness and legality of which I examined at some length to show that open conflict began in resistance to legally constituted authority,—immediately arrested Coleman. The North had prepared to resist *all* authority—it had determined and was now prepared to force upon Kansas its demands,—demands, let us not forget, which had no regard whatever for the rights of the negro. We shall see later that their fight for a "free State" was far from a fight for the mitigation of the

⁷¹Ib., 90.

⁷²Repts. of Coms., 36 Cong., 2 sess., Vol. III., 14.

sufferings of slavery. Rather than wait to see the result of the legal proceedings against Coleman, a Northern free-State man by the name of Branson and a large number of his own party met and boldly declared that they would take the execution of Coleman into their own hands. Harrison Buckley, a friend of Coleman, hearing of these threats, swore out peace warrants. Acting under these warrants, Sheriff Jones arrested Branson, shortly after which he was met by a party of armed free-State men who demanded of him and by show of superior force obtained the release of Branson. On the night of this rescue, the homes of Buckley and Coleman, the latter yet in custody, both were burned by incendiaries.³⁷³ Reliable men alleged that the Buckley family was turned out of doors with the loss of everything but the clothing in which they fled.³⁷⁴ Now, let us note: (1) this rescue occurred November 26th, only five days after the killing; (2) the rescuing party had gathered at the home of J. B. Abbott; (3) this is the same J. B. Abbott who had been sent in the July *previous* to Boston for guns,³⁷⁵ and who "also procured a mountain howitzer with ammunition, as well as Sharp's rifles"; (4) the rescuing party fell behind the small army which had been gathered some months previous, and which had been armed by Amos A. Lawrence and other Northern men in August previous.³⁷⁶ Thus defied, the officers of the Territory found themselves face to face with a fortified military organization which forcibly prevented the execution of the legal processes. Lawrence was the fortified stronghold of this belligerent party. Gathering a posse, the sheriff went down upon Lawrence; and thus began what some writers call the "Wakarusa war, or first attack upon Lawrence."³⁷⁷ Later I shall notice some details of this "fight," the chief concern now is to see the beginning of actual conflict and its object.

No fair historian can truthfully claim that this gathering of arms and marshaling of drilled companies were needed for the protection of either life or property. It is amusing, as well as somewhat significant, to remember that Dr. Robinson says that the

³⁷³Repts. Coms., 36 Cong., 2 sess., Vol. III., 14.

³⁷⁴J. Douglas Brewerton, *The War in Kan.* (1856), 150.

³⁷⁵P. 183, *supra*.

³⁷⁶Sup. 184 and *inf.*

³⁷⁷Rept. Coms., 36 Cong., 2 sess., Vol. III., pt. 1, p. 15.

Northern side hired a "bully," and that he "frightened every pro-slavery man from the field." Just think of it, one man ran all the "Missouri ruffians" off the turf in a few days! Be that as it may, one thing the *facts* make certain: these guns were the engines of bold, aggressive sedition. In support of this hear Dr. Robinson, writing to Amos A. Lawrence, November 1, 1895: "A few of us dared to take a stand in defiance of the legislature, and meet the consequences. We were convinced that our success depended upon the measure. . . . For a while we had to contend with opposition from the faint-hearted, but by persevering in our course, by introducing resolutions into conventions, and canvassing the Territory, repudiation became universal with free-State men. . . . We conceived it important to disown the legislature . . . before we knew the character of its laws. . . ."⁸⁷⁸ It was to maintain this position that the North furnished thousands of money, thousands of improved guns—one enthusiast wrote that the Sharp's rifles would shoot a "thousand times a minute"—and not content with the ordinary engines of death, cannon came to crown the work. "The howitzer was procured in New York through the aid of Horace Greeley, Olmstead, and others."⁸⁷⁹

In strange contradiction to his rebellious actions, Dr. Robinson acknowledged the lawful authority of the legislature, repudiation of which he helped to become universal, by putting in operation a charter passed by it.⁸⁸⁰

I cannot resist the inclination to notice one more of Mr. Lawrence's statements. It is pertinent to examine the credibility of these men because the reason for all this preparedness which first burst upon public gaze in the Branson rescue, lies hidden beneath their attempts at misleading the public; and the usual version of the Kansas troubles rests upon their credibility. The groundless claims of writers concerning the causes for arming the Kansas abolitionists, have been so persistently pushed forward that I feel that the light should shine even at the expense of encroaching on the patience of the general reader. On page 874 of his deposition, Mr. Lawrence says that no pledge concerning their political opin-

⁸⁷⁸Kans. Conflict, 161; Spring's Kansas, 61.

⁸⁷⁹Kans. Conf., 126.

⁸⁸⁰Kan. Hist. Cols., Vol. V., 216.

ions was taken from those whom they assisted. This claim is abundantly refuted by credible witnesses who deposed before the investigating committee. I need here introduce but one, Mr. John E. Ingalls, who was a native of Massachusetts, and who personally knew some of the officers of this New England emigrant incubator—Mr. Webb, an agent, in particular. Mr. Ingalls says, "The understanding was that they would help none but those who voted their ticket." It is proven by numbers of other witnesses who were before the investigating committee that many hundreds of the Northern abolition emigrants came to the Territory, voted and went home, saying they had come only to vote. The political faith held by the men sent out by Mr. Lawrence's company was the paramount concern of its promoters. Mr. Lawrence is impeached by the greater weight of evidence; was he evading or mistaken? Could he have been mistaken? He speaks positively and for the actions of his company whether performed by himself or by others of its officers.

Also in striking contradiction to such statements as he made and which are sometimes since repeated, is the admission made in the address to Congress by Mr. Lawrence's company. There they say, "We are perfectly willing to add, however, what you must already be aware of, that when we organized ourselves to extend such facilities to emigrants from the East, who knew that they would be men who meant to live in a free State. They are men who live by hard work, as we all do; and they would not go anywhere where they thought that the permanent institutions of the State would make hard work disgraceful. They knew that by the principles of the Kansas-Nebraska act the actual settlers must control the institutions of Kansas and Nebraska. They were willing to take the chances of an appeal to this principle."²⁸¹

The credibility of Dr. Charles Robinson is of prime importance, because perhaps no one of the agitators of that day has done more to mislead no small per cent. of the otherwise standard non-American and Northern writers. There has been, and of those of them who yet survive there is yet, a bitter fight between some of the leaders of the Kansas movement. They have done much to give the world a chance to estimate the credibility of the respective participants. This "fratricidal war" has produced much to sustain the

²⁸¹App. Cong. Globe, 34 Cong., 151.

claims of the South that wealthy and influential Northern men were creating a popular clamor against the Southern people,—a rage which produced death and loss to the South and one which the party who so soon obtained the control of the Federal Government said they could not more effectively control,—for base and ignoble purposes. William Elsey Connelley in "An Appeal to the Record" has compiled some material to prove "Robinson's general corruption in office and the bond swindles of his administration," and asserts that Robinson's and Thayer's "books are worthless, or nearly so."³²² Of course, this assertion is valuable only to the extent that it is sustained, and for that purpose he quotes from newspapers and other sources contemporary with the events of that period, published by free-State and abolition men. It will be remembered that he is one of John Brown's strong friends, and hence this recent production of his will have the more weight since it comes from one by no means a friend to the "border ruffians of Missouri" or the anti-bellum Southern position. But aside from the evidence which he presents to sustain his charges of faithlessness and corruption against Doctor Robinson; or to show that the Emigrant Aid Company "was organized for speculative purposes," and that "making Kansas a free State was incidental to its design, and was an issue used principally to induce people to subscribe for stock and contribute money,"³²³ we have facts furnished by the earlier sources which must not be neglected.

On page 899 of the Evidence in the Congressional investigating committee report, Doctor Robinson says, "I left Massachusetts for Kansas in June, 1854. . . . At that time no Emigrant Aid Society with which I have since been connected, was in existence, and, consequently, I could not act as agent of such a society. My first connection with an emigrant aid society, as official agent, was some time in September, 1854."

There is not the slightest doubt of the existence—Mr. Thayer says, and the records bear him out, "before the Kansas-Nebraska bill passed the Senate"³²⁴—and organization and operation of this emigrant "society" or "company"—call it what we may, no equivoca-

³²²Ib., Topeka, Kans., 1903, p. 9.

³²³Ib., 109.

³²⁴The Kansas Crusade, 36.

tion avoids responsibility—*before* Robinson left Massachusetts. Thayer says, "It was at one of the Chapman Hall meetings that I first saw Charles Robinson (afterward Governor of Kansas), and engaged him to act as agent of the Emigrant Aid Company."³⁸⁵ This was not only prior to September, 1854, but was prior to Robinson's leaving Massachusetts. At the time Mr. Thayer "engaged him to act as agent of the Emigrant Aid Company," Robinson met the directors of the Company, and at their solicitation he agreed to start for Kansas June 28, 1854.³⁸⁶ But Doctor Blackmar, Robinson's biographer, must have felt the force of the words of the sworn deposition, for he tries to ease the governor-doctor over the pitfall; he speaks of the new charter which was little more than the same old company with an enlarged list of incorporators, which Thayer obtained for his scheme in February, 1855, and says, "It was at this time Charles Robinson appears on the scene of the Kansas conflict. He was chosen a financial agent of the Emigrant Aid Company, with his field of operations in Kansas."³⁸⁷ But in another place Doctor Blackmar says, "In June, 1854, Doctor Chas. Robinson, of Fitchburn, and Mr. Charles H. Branson, of Holyoke, Massachusetts, were sent to explore the Territory of Kansas and select a site for the location of the emigrants sent out under the protection of the Emigrant Aid Company. . . . While the explorations of these advance agents were taking place, a company [*i. e.*, a band, "party," he calls them in the next sentence] was being formed in New England to establish a colony in Kansas. Twenty-nine emigrants formed this first party," and these came to St. Louis, "where they were met by Doctor Robinson. The Doctor at once looked after general needs, and secured transportation on the steamer 'Pole Star,' which left St. Louis July 24th for Kansas City"; and the party arrived, accompanied by the Doctor, in Kansas July 31, 1854.³⁸⁸ This same Doctor Robinson met another and larger party a few weeks later.³⁸⁹ Hence, the Emigrant Aid organization *was in existence* when Robinson left Massachusetts; he *was employed* by its officers "to act as agent"; *he did so act in more than one way*; and

³⁸⁵Ib., 33.

³⁸⁶Frank W. Blackmar, Ph. D., *The Life of Chas. Robinson* (Topeka, 1902), 86.

³⁸⁷Ib., 103.

³⁸⁸Ib., 111.

³⁸⁹Ib., 112.

this employment and agency and action thereunder were months *prior* to September, 1854. Was Doctor Robinson cringingly evading, or mistaken? Yet the historian, James Schouler, says, "Chas. Robinson, . . . the best of the whole community for keeping them faithful to high ideals";⁸⁰⁰ and Dr. von Holst: "Doctor Robinson, a circumspect and clear-sighted man."⁸⁰¹

Or, what must be the conclusion as to the historical credibility of Governor Reeder and the majority of the special Kansas investigating committee? Reeder was backed by a large number of Northern Congressmen. His position and statements did much to mould the public opinion of the North and to embitter them against the South. The declarations of the majority report of the investigating committee have been almost literally followed by those who profess to give us the truth about the Kansas struggle. They write the Northern version of that period, and as I showed in my early quotations, this version has come down in school histories now in use even in the South. Governor Reeder admitted the legality of the legislature, except in a few voting districts which he set aside and in which he ordered new elections, the result at which has been seen. When relieved of his office and received into full standing with the abolitionists, he repudiated his own official acknowledgment. Was he evading, or mistaken? Doctor Robinson says Governor Reeder was a man of "integrity." On which occasion? When he commissioned, convened, and recognized the Lecompton legislature; or when he afterwards called this same body "bogus" to the public and entered the ranks of rebellion against it; or when he wrote the private letter which I gave in part, admitting that the Northern party were in the wrong? He had no more light last than first. Yet Mr. Rhodes credits him thus: "Reeder was an able lawyer and a man of energy and integrity."⁸⁰² The majority of the Congressional committee say in their report that not an officer from constable up in the entire Territory had been legally elected. In the same report, but at another place, they admit that General Whitfield, on November 29th, 1854, was legally elected. "Every election in the Territory," they declare—and note how that declaration has since

⁸⁰⁰History U. S., Vol. V., 330.

⁸⁰¹History U. S., Vol. V., 174.

⁸⁰²History U. S. (Harpers), Vol. II., 80.

been perpetuated—has been controlled by Missourians. They admit Whitfield's was not; that of May 22, 1855, held in the sixteenth election district for the re-election of representatives whose election Governor Reeder had declared void, was proven to be entirely without fraud, save a few non-resident votes not enough to change the legal result, and to be a clean, honest victory for the Southern side, to say nothing of the facts which I have presented concerning that of March 30th. Were they mistaken, or evading?

Another source of information concerning the struggle between the North and the South as it was fought in Kansas, which is pronounced by some present Northern writers and educators very high in authority as "most impartial," is that given by the English writer and newspaper correspondent, Thos. H. Gladstone, a relative of the late William E. Gladstone. In another connection, I shall show that he is anything other than "most impartial," and shall show that in accepting him as a source of accurate information, writers have rested upon a very misleading witness.

While the New England Emigrant Aid Company, whose officers and actions thus far have largely engaged our attention, was the most prominent, it was by no means all of its class. Some were more quiet in their work, yet all kept busy. Phillips gives us the names of some of them that were operating at the time he wrote:

"The American Settlement Company, of New York City. This company founded the Council City settlement. The secretary is Theo. Dwight, 110 Broadway, New York." He then gives the New England Emigrant Aid Company, and mentions its officers and active members with whom he includes the now venerable Doctor Edward Everett Hale. He proceeds: "The Vegetarian Settlement Company, The New York Kansas League, the Octagon Settlement Company, and some minor ones."²⁰²

There was an organization called the "Kansas Aid Company" which was organized in Washington city "immediately after the passage of the Kansas-Nebraska act." Honorable D. Mace, a representative from Indiana, was an officer of this organization. In his sworn deposition he says, "The leading, primary object was to prevent the introduction of slavery into Kansas"; and he also says that he believed "vigorous steps" were needed to maintain Northern

²⁰²Phillips, *The Conquest of Kansas* (1856), 25.

views there. He continues: "We issued a circular to the people of the country, of the Northern states particularly," . . . "and urged that steps be taken to induce persons from the North, who were opposed to slavery, to go there [Kansas] and prevent its introduction if possible." He says many circulars were sent out, and various communications had, just what all was said he does not remember; but the object, he says, was to induce men to go to Kansas "who would, at all elections, vote against the institution of slavery."⁸⁹⁴ Mr. Goodrich, a Congressman from Massachusetts, was president; Mr. Fenton, representative from New York, was one of the vice-presidents. Many of the Northern Congressmen became members and contributed to further the objects of the society. Many of these organizations were in active operation, be it constantly remembered, months before any Southern organization, designed either for initial aggression or to have a counteracting influence, was put on foot, or likely conceived. They were prior to the "Blue Lodges" of Missouri, and had commenced their crusade long before Missouri rose to her own defence.

MORAL EFFECT OF EMIGRANT INCUBATORS.

In Missouri, and in a few places in other Southern States, emigrant aid societies were finally organized. These were on a small scale, almost entirely without capital, and spasmodic in effort. Southern newspapers appealed to Southern men to move to Missouri or to Kansas. We often find pages of certain books filled with quotations from such Southern appeals. But there is a fundamental, underlying fact in connection with such statements or appeals in the Southern press, which is generally not clearly brought out or entirely obscured. And that is that the state-legalized, widely-patronized, highly-capitalized Northern concerns were the aggressors, and but for this moral and political sin such movements in the South would never have been, and such appeals from the Southern press would never have been heard. Counter Southern action became a matter of self-preservation as entirely justifiable as the defence of one's hearthstone could possibly be. Think of what the emigrant aid movement really was. By such movements

⁸⁹⁴Evidence, Com. R., 34 Cong., 12, No. 200, p. 829.

any section of the United States then or now could dominate the politics of any other section. Such efforts defeat the primary object of a republican government; they lead to chaotic anarchy. As touching the moral effect of these organizations, I am sure that a few more extracts from the evidence taken by the Congressional committee will be both profitable and interesting.

One unimpeached witness says, "I do not think there would have been any excitement at all, if Free-State men had emigrated here in the usual way, as had always been the case in the settlement of the Western territories. It was my feeling, and the feeling of the community in which I resided, that Free-State men might come and intermix among us in the Territory in a friendly and social manner, and advocate the policy of making it a free State; and if, in organizing the Territory into a State, they should have a majority, we were prepared to submit to it in peace and quietness."

I stated as one of the reasons why the South was forced to take the steps leading to final secession, that she had the most conclusive reasons to believe that illegal, unwarranted efforts were imminent to interfere in the internal affairs of the existing States. She learned of this from threats and overt acts, the only way one individual or any number of persons can judge of the intention of any other or others. The South was boldly told by this party of rich agitating Northerners that when Northern political ambitions had been realized in Kansas, first Missouri and then the entire agricultural South would be dominated by this Northern exodus and politically incubated emigration. Is there a Northern State that would have been less resentive if the situation had been reversed? Let me introduce evidence showing that first Missouri and then the South acted in defence against this movement. On this point the witness which we have just heard continued:

"We understood and believed, from the declarations of men of their party who came here, and what we saw in the newspapers, that the ultimate design was to effect the institutions of Missouri and make it a free-State. . . . Emigrant Aid men told me that they were pledged before they left home to make it a free-State."⁸⁸⁵

On the same point hear another creditable witness, likewise under oath:

⁸⁸⁵Evidence, p. 855.

"The first thing that excited and alarmed the Missourians was the incorporation by the legislature of Massachusetts of a corporation with a capital of five million dollars, as was understood [it must be remembered that Northern men and papers reported that this was the correct sum, though, as we have seen, it was left to the incorporators to fix a sum not exceeding \$5,000,000] for the purpose of colonizing Kansas Territory with abolitionists."⁸⁸⁶

A man by the name of Lincoln, an agent for some of these abolition organizations, told another witness that the object was to bring men to Kansas to vote it a free-State, with no intention on the part of many to become permanent residents. Others declared that they had come for no purpose other than to vote.⁸⁸⁷ Another witness met a colony of Englishmen who openly declared that they had been paid to vote with the Northern men.⁸⁸⁸

J. H. Day, of Minnesota, under oath, stated that he gathered his understanding of what the North meant to do from literature purporting to be issued by the emigrant aid organizations, and from the *New York Tribune*, and he understood that after they had conquered Kansas, "then the emigrants were to pull up stakes and move to other places and do likewise. The *Tribune*, I think, said . . . they would carry the war into Africa; meaning I suppose [d] that they would commence operations in Missouri. This I understood to be the case before I came into the Territory. . . . The general belief that such was the case was the cause of the difficulty here."⁸⁸⁹ Such threats and declarations, unaccompanied by any movement, might have been treated lightly. But the North not only talked; she began to do what she said she would do. Not a few in Missouri knew of these threats, either. Milton J. Payne, of Kansas City, in his deposition, says, "It was a general rumor that they intended to make this [Kansas] a free-State, and then interfere in the affairs of slavery in Missouri."⁸⁹⁰

These depositions are not exceptions. What they say is not refuted or injured by other evidence. These give us the true state of the Southern knowledge and feeling. They show that by threats

⁸⁸⁶Evidence, p. 863.

⁸⁸⁷Evidence, p. 1144.

⁸⁸⁸Evidence, p. 854.

⁸⁸⁹Evidence, p. 526.

⁸⁹⁰Evidence, p. 837.

and acts the North alarmed the South. If a Southern emigration to-day were to set in for some State in the North with the avowed object of controlling her elections, after which the emigrants and their leaders declared they meant to move into another State and shape its laws according to their ideas and conceptions, the Northern blood would warm as quickly as that of the South under a like insult.

By no means are we left to the depositions alone. Hear once more the man of power who moved the North as no other man ever did, who wrought upon the purse strings of "rich New Englanders" so that single individuals put thousands at his disposal—for instance, J. M. S. Williams subscribed ten thousand dollars and Charles Francis Adams twenty-five thousand⁴⁰¹—as he boasts of his willingness to overcome the weak, as he exultingly flaunts in the face of the South his power, Eli Thayer, "shrewd, sharp-tongued," testifies Schouler,⁴⁰² declares the North was conscious, "That in this contest the South had not one element of success. We had much greater numbers," he continues, "much greater wealth, greater readiness of organization, and better facilities of migration. That we would put a cordon of free States from Minnesota to the Gulf of Mexico, and top the forming of slave States. After that we should colonize the northern border States."⁴⁰³ This interference "by methods neither legal nor justifiable," in the local affairs of the existing States, Thayer had in mind before his Emigrant Aid Society was incorporated, the movements of which in Kansas were meant to be merely preliminary to deeper plans. Speaking of the charter of this Emigrant Aid organization, he says, "It was my purpose, when I wrote that charter, to be done with Kansas in 1855, and then, without loss of time and with increased capital, to have bought up large tracts of worn-out lands in Virginia. Of these it was my purpose to give one-half, in forty-acre lots, to our emigrants in the free States. The remaining half would be worth not less than four times the whole cost, as soon as the emigrants had occupied their homesteads. Two years of such work, by such a company, in Virginia, would have made her as secure for the Union in 1861 as Massachusetts was."⁴⁰⁴ At the time their movements to

⁴⁰¹Thayer, *The Kansas Crusade*, 33.

⁴⁰²History U. S., Vol. V., 323.

⁴⁰³*The Kansas Crusade*, 32.

⁴⁰⁴*Ib.*, 59.

Kansas were materializing, the plans against the Southern States at large were known from the halls of Congress to the remotest frontiers. The South was advised that they proposed "at all hazards" to take Kansas, "And further, that whenever the Territory shall be organized as a free State the trustee shall dispose of all its [the Emigrant Aid Company] interests there, replace by the sales the money laid out, declare a dividend to the stockholders, and that they then select a new field, and make similar arrangements for the settlement and organization of another free State."⁴⁰⁵ Thus in books which were issued before the contest began, in their prospectus, and through the declarations of their emigrants, the aggressive challenge went forth from the officers of these Northern organizations.

I do not overestimate the power and influence of this Thayer movement. When the South took alarm at it her fears were well founded. Says Schouler, "The inspirational force of Thayer and his parent company led to the formation of hundreds of Kansas leagues and Kansas committees in our Northern States, all loyal to one another, all combined for a common purpose."⁴⁰⁶ Mr. Schouler relies upon Thayer as his authority, together with Prof. Spring, whom I have frequently quoted. He says that this Northern movement proposed, "in the first place, to make Kansas a free State, and then to sell out and select and settle some other field, and so go on until every possible area of the Union became reclaimed by the genius of free labor."⁴⁰⁷ A "magnificent" "enterprise," exclaims Mr. Schouler in admiration and approval!

It will be remembered that in my examination of the elections, I showed that by granting all the fraud had been on the Southern side, and that all the illegal votes had been cast by Missourians not entitled to vote, even then the Southern ticket was legally elected. I desire now to offer cumulative evidence to bear out my statement that much fraud and illegality were perpetrated by Northerners, and that the statements in the histories that illegality and intimidation won a Southern victory are untrue. Hence, I subjoin a few extracts from representative witnesses, who deposed before the Con-

⁴⁰⁵ App. Cong. Globe, 34 Cong., 1 sess., 97.

⁴⁰⁶ History U. S. (Dodd, Mead & Co., 1891), Vol. V., p. 325-6.

⁴⁰⁷ *Ib.*, 324.

gressional committee, which show the true state of affairs at the time.

Adam Fisher, a free-State man, said, "I do not know of any Free-State man being deterred . . . from voting on account of his political views."⁴⁰⁰ Northern men secured non-resident steamboat hands to vote the abolition ticket.⁴⁰¹ About one hundred Eastern emigrants wintered in Kansas City, went over to the spring election, and immediately returned going North again.⁴⁰² One passenger agent carried hundreds of Northern emigrants, "the majority had satchels" only, and "some had no baggage at all," and some said they would go home after the election, as they had come merely to vote.⁴⁰³ Another witness saw many abolitionists, who said they were going to vote, on their way back going North again after the election.⁴⁰⁴ Hundreds had no "apparent implements of husbandry, with but carpet sacks. . . ."⁴⁰⁵ Many of the Northern people were boastful and made loud threats. Speaking of them, a Kansas merchant in his deposition says, "I do not think their baggage looked like that of emigrants who intended to remain. . . . I think after the election they went back as fast as they came before the election. . . . Those I heard speak, and who appeared to be leaders, said they were coming to Kansas to vote."⁴⁰⁶ C. E. Kearney, a steamboat captain on the Missouri river, says one hundred and fifty abolition emigrants offered at one time "double passage to be brought up in time for the election."⁴⁰⁷ In Lawrence, Mr. Pomeroy, who was an agent for one of the emigrant societies, led in one string, like marching soldiers, about one hundred newly-arrived emigrants, off the boats but a few hours, to the polls and voted them.⁴⁰⁸ Another witness says:

"Dr. Robinson had been gone East, so I was told, and he returned to town the evening of the day of the election, and the first I saw of him was coming across from Lawrence to the polls of the election

⁴⁰⁰Evidence, p. 529.

⁴⁰¹Ib., 531.

⁴⁰²Ib., 835-6.

⁴⁰³Ib., 854.

⁴⁰⁴Ib., 846.

⁴⁰⁵Ib., 846.

⁴⁰⁶Ib., 850.

⁴⁰⁷Ib., 852.

⁴⁰⁸Ib., 166.

with fifty or one hundred men, quite a string of them marching up to the polls. He marched them right up to the polls, and they voted the Free-State ticket, and then he marched them back. They were all strangers to me, and he had just come in with them that day. I knew most of the Free-State men residing in the district at that time."¹¹⁷

This was at the election of March 30, 1855, the second election held in the Territory, and the one at which the legislature, so vigorously repudiated by the North, was elected. These men could not by any possibility have legally voted; they were just from the North a few hours, and had not had the requisite residence under the prescribed regulations. But read carefully as we may all the histories which we quoted on early Kansas elections some pages back, and many others like them, and not an intimation of such acts of illegality on the part of the North do we find. No, not one! That the facts here given are true there is not the least doubt. They were not disputed. Many historians have not told the whole story. We are told that Missourians voted illegal votes, but we are not told that such things as we have seen and the following were the true and reasonable cause for whatever the Missourians or other Southern men did.

"Mr. Brown, the editor of the *Herald of Freedom* [Lawrence paper] stated on the day of the nomination that there need be no fear about their [abolitionists, or Free-State party] being beaten, as he had just received a letter from Mr. Slater [agent of the Northern societies] of St. Louis, informing him that there were between six and eight hundred Eastern men on the river on the way up, and would be up the day of the election, and three hundred would be at Lawrence. [And a large number actually did arrive and vote on the day of the election.] This thing was well understood, and the Missourians heard of it."¹¹⁸

The fact that the true record of the North in Kansas is either not told or obscured, and that continually we are reminded of the movements by Missouri "ruffians" and Southern men without "statesmanship or strategic ability," is an open admission that there are wrongs and illegalities which some one fain would hide. What

¹¹⁷Ib., 160.

¹¹⁸Ib., 166.

we here see is but one step in the long ladder that led down to the Civil War.

The rebellion in Kansas was an exotic—indigenous to the soil of the North, and first cultivated in Massachusetts. Prior to the passage of the bill which gave both sections of the country an equal opportunity for settlement in Kansas and other new territories, on February 27, 1854, at Pittsfield, Mass., a large public meeting, among its resolutions declared that “the citizens of the Free-States, must and *will, at all hazards, and through all time, insist that slavery shall never be permitted north of 36° 30’.*”⁴¹⁹ Here is nothing less than a declaration of war. It can by no possibility be construed to mean more, and certainly not less than that Massachusetts will not submit to republican government even where no injuries are being inflicted upon her,—unless her interpretation of that government be accepted. Such position is in full keeping with her past. It is the spirit of her then venerable J. Q. Adams who, backed by a petition from Massachusetts citizens, on the 14th of June, 1842, presented the petition and moved “praying Congress to adopt immediate measures for the peaceful dissolution of the Union of these States.” Between the insubordination of Massachusetts and the rebellion in Kansas there is but one distinction: in Kansas subterfuge and prevarication both united to fill the place left vacant for want of justification.

The insubordinate Kansas legislature sent Lane, a man who had played on both sides, and ex-Governor Reeder, a man who sought office at the expense of honesty, to Congress to present a memorial, exhibit what they claimed to be a constitution, and asks that Kansas be admitted as a State, and that the bearers thereof be admitted as United States Senators! This memorial, after setting out a number of laws enacted by the rightful body of legislators, proceeded to declare that “it was the enactment of such laws that forced the people of Kansas to take the initiative step toward the formation of a state government.”⁴²⁰

I have already pointed out that Governor Robinson, the man whom this faction claimed to have elected as their chief executive, admitted that armed repudiation anticipated by some months the

⁴¹⁹Cong. Globe.

⁴²⁰App. Cong. Globe, 34 Cong., 1 sess., 89 to 217, 383.

acts of the lawful legislature. It now remains to notice briefly the thoroughness and scope of the seditious movement thus early inaugurated. This will show the growing danger to the South; and, since Northern coöperation has been shown, it will be seen that when this Northern party coöperated in the election of Lincoln, who had sworn allegiance to their doctrine, the national character of the danger became more imminent.

The Northern people who furnished Sharp's rifles—"Beecher Bibles"—and mountain cannon declared that they "had also sent and would continue to send men and means to make Kansas a free state by force, if necessary." On the scene of the conflict no secret was made of the fact that the conspirators were depending upon the North for both moral and material support. Such men as Robinson, Reeder, Lane, Brown, and others, "captains of sedition," have made no secret of the fact that "by forming a free-State constitution they could get the aid and sympathy of the North to help them enforce their provisional laws."⁴²¹ The Boston and other abolition capitalists built a large house in Lawrence, providing it with port-holes for guns, because they said they expected to come into collision with the Territorial authorities. Their leaders, such as G. W. Brown, Dr. Robinson, Dr. G. A. Cutter, C. W. Steward, and others, made boastful public speeches, in which they urged the organization of secret societies for resisting the authorities. "Abolitionists received their speeches with applause."⁴²² The fact that all of them made no excuse for marshaling military companies other than an intention to resist the laws enacted by the legislature which Governor Reeder had convened pursuant to election of March 30, 1855, should be all the evidence needed to show that there was no real need for such belligerent preparations; all these guns and drilled companies were not needed, nor any considerable fraction of them, for purely legitimate protection of person and property. Yet writers generally in treating of these things try to leave the impression that a hostile invasion from the "border ruffians" of Missouri, or some other section of the South, was both threatened and made. Legal officers, now and then accompanied by Missourians,—and a few individual exceptions which were not legal,—made efforts fre-

⁴²¹Minority Report, Sp. Kan. Com., 1 sess., 34 Cong., 87.

⁴²²Report, Sp. Kan. Com., 1 sess., 34 Cong., Evidence, 907.

quently to execute the laws of the Territory. But whatever occurred in the nature of an "invasion" took place many months after the sedition and rebellion had been in actual armed progress. Neither these abolition rebels, nor their Northern allies, appealed to the United States soldiery for protection, as they had a right to do if such protection were needed,—except in a way and under assumed authority such that the request itself was a defiance to the very act of Congress which yet made Kansas a Territory. For instance, September 3, 1856, H. Miles Moore, who claimed to be acting for the Kansas *State* Central Committee, requested the officers in command of United States troops in Kansas to lend them specified assistance. In his report of September 5th, Adj.-Gen. Deas said, with reference to this appeal: "*The State of Kansas* is not recognized by any portion of the general government, and the commanding general could, therefore, hold no official correspondence with Mr. Moore in his assumed position, or office, as indicated in his communication."⁴²⁸ From the first and for years following they requested and received money, men, and guns from the North, not for protection, but to resist what they were pleased to call the "bogus" legislature, and the acts of the Territorial officers, in an effort to sustain the Topeka government and the "State of Kansas." And not against the Territorial laws and officers only; they were in rebellion against the United States,—its President and laws and soldiery.

September 5, 1855, pursuant to a call from the leaders, and after a thorough canvass of the Territory, the insurrectionists met in convention at Big Springs. A Northern man introduced the following resolution:

"Resolved, That every reliable Free-State man in this Territory be furnished with a rifle, a brace of pistols, and a sabre, gratis; [I am sure it was a mere oversight that the bowie-knife was not added; and as to the feathers for the head, it is likely they meant to obtain these from scalps obtained from "Missouri ruffians"] and that he be required to take an oath to come when called upon, and muster into service under his superior officer, and to sacrifice his life if necessary, to secure the person and property of any person who would be brought under the jurisdiction of the present laws of this Territory."

⁴²⁸Sen. Docs., 3 sess., 34 Cong., Vol. III., No. 5, 99.

Armed by the North, encouraged by the North, here on the Kansas plains is a declaration of war. It is open rebellion against Territorial and Federal authority. The Governor, Mr. Shannon, Governor Reeder's successor, was an officer of the United States, appointed by the President. He was charged with the execution of the Territorial laws; this "open and avowed renunciation of the government" to which all owed allegiance was rebellion against the Federal authority. Even if it had been possible to resist the Territorial laws without resisting the Federal laws and officers at the same time, this led to resistance and to open contact with the Federal government. The whole affair was a vicious move, with the abolition sympathy of the North behind it. If other events had not hastened the withdrawal of Southern Senators and Representatives from Congress in 1860-'62, thus leaving the Republican party of the North, the immediate successors of the abolitionists (most certainly the successors of the free-State abolitionists) in control of the national legislature—owing partly to which fact Kansas became a member of the Union with what is known as the Wyandotte Constitution,—the North would have been the secessionists. Otherwise we must believe that hundreds of resolutions like the one at Pittsfield, Mass., in 1854, and the one offered in Congress in June, 1842, by the venerable J. Q. Adams, were but the meaningless prattle of little children.

To return to the Big Springs' convention. Loud cheers and hurrahs greeted the resolution. Dr. C. Robinson, whom his party made governor as soon as the excitement of the Civil War diverted the attention of the South, was the presiding officer. "Ex-Governor A. H. Reeder urged the people to bloodshed and rebellion, while they listened to him as though he were one of the prophets and patriarchs of old." Throughout the Territory leading abolitionists "openly boasted that they had helped to run off negroes from the South into Canada, and hoped the day was near at hand when they would succeed in all their designs, and settle those gentlemen of color along the shores of Kansas, where they could make war on the institutions of the South, particularly of Missouri. . . . Such are the principles of those who keep Kansas in a state of rebellion, and such are the men who are the leaders of the leaders of the abolitionists—leading them on to thievery, treason, and death."⁴²⁴

⁴²⁴R. Com., 34 Cong., 1 sess., Minority Report, 91.

The organization of the sedition forces was thorough. Throughout the Territory, where they could be gathered, companies were drilled, and secret societies, such as the "Kansas Regulators," flourished. The secret political organizations used as a badge one or more "black ribbons tied in the shirt bosom." Reeder, Lane, Robinson, and other prominent leaders, wore this badge conspicuously. The following is the "grand obligation" which was solemnly administered to members:

"I, . . . , of my own free-will and accord, in the presence of Almighty God and these witnesses, do solemnly swear that I will always hail, forever conceal, and never reveal any of the secrets of this organization to any person in the known world, except it be to a member of the order, or within the body of a just and legal council. I furthermore promise and swear, that I will not write, print, stain, or indite on anything movable or immovable, whereby the least figure or character may become intelligible to myself or any other person. I furthermore promise and swear, that I will at all times and under all circumstances, hold myself in readiness to obey, even to death, the orders of my superior officers. . . . I furthermore promise and swear, that all business that I may transact, so far as is in my power, shall be transacted with free-State men. I furthermore promise and swear, that I will at all times and under all circumstances, hold myself in readiness to take up arms in defence of free-State principles, even though it should subvert the government. I furthermore promise and swear, that I will at all times and under all circumstances, wear upon my person the regalia of my office and the insignia. . . . I furthermore swear, that I will at all times and under all circumstances, wear upon my person a weapon of death. I furthermore promise and swear, that I will at all times and under all circumstances, keep in my house at least one gun, with a full supply of ammunition. I furthermore promise and swear, that I will at all times and under all circumstances, when I see the sign of distress given, rush to the assistance of the person giving it, even when there is a greater probability of saving his life than of losing my own. I furthermore promise and swear, that I will, to the utmost of my power, oppose the laws of the so-called Kansas legislature. I furthermore promise and swear, that when I hear the danger signal given, I will repair to the place where the

danger is. I furthermore promise and swear, that if any part of this obligation is at this time omitted, I will consider the same as binding when legally informed of it. I furthermore promise and swear, that at the convenient opportunity, I will commit this obligation to memory. To all this I solemnly swear, without equivocation or self-evasion, binding myself under the penalty of being declared a perjurer before Heaven and a traitor to my country."

Signs, grips, and pass-words were used.⁴²⁵ In connection with this it is interesting as showing that the seditionists meant to stop short of nothing, to note the declaration of a prominent leader, who declared that "... if need be we will resist even the United States troops if they attempt to enforce those laws."⁴²⁶ By "those laws" he meant the laws of the Territory as enacted by the legislature of March 30th.

There is some evidence tending to contradict the exact wording of the above oath. But shortly after knowledge of it was obtained by the witness who gave it to the country and to the Congressional committee, March 29, 1856, he went before a grand jury and divulged the whole affair, and gave the names of those present, who aided, etc., when he first heard the oath administered.⁴²⁷ Those men were summoned before the jury, but they either entirely refused to speak on the point or evaded the questions asked them. However, in his deposition, Governor Reeder practically corroborates the wording as I have given it, thus leaving no doubt of its substantial correctness, most likely establishing its literal accuracy.

The plight in which the ex-governor exhibits himself during his deposition is almost pitiful. He says he had known the name of the society who administered this "grand obligation," but that he had forgotten it! He also states, "As to the laws of the so-called Kansas legislature, that any pledge was made in regard to them, it is possible that there may have been a pledge to oppose, disavow, or repudiate them as not binding, and not to avail myself of them, and such a promise I may have made and forgotten."⁴²⁸ A bolder attempt to evade the truth is scarcely to be found in our history. In more than one place he contradicts former statements. Yet upon this

⁴²⁵See Evidence, 910.

⁴²⁶Evidence, 915.

⁴²⁷Kan. Historical Cols., Vol. I., 411-12-13; Minority Rept., 91 *et seq.*

⁴²⁸Evidence, 947.

man's story prominent historians base their version of the early elections and the part taken therein by Missourians. Hear Mr. Rhodes on this point: "There could be no dispute about the facts. Reeder came East and told the story."⁴⁸⁰

This is the same man who, as governor in his message of July 3, 1855, to this same legislature whose laws he later took this oath to spurn and resist, said, "Claiming as we do the same capacity for self-government as our fellow-citizens of the States, with a far greater, if not an exclusive interest in the institutions and laws which are to exist among us; compelled alone to bear their burdens, and entitled alone to claim their benefits, wisdom, justice, and fairness, would declare that those laws and institutions, inside of the Constitution of the United States, should be moulded by ourselves, stimulated by the absorbing interest we must feel in them, rather than by the citizens or representatives of other states, who are no more competent to the task than we, who have no stake with us in their results, and who would most indignantly repel any offer of reciprocity from us in assisting to manage their affairs. The provisions of our territorial organic act secure us this right, and is founded in the true doctrine of republicanism." And a little further on: "An agitation of" "the slavery question in the direction of an attack upon constitutional rights," "such as we have seen industriously prosecuted in the past history of our country by the destructive spirit of abolitionism, can never be productive of aught but evil, . . . and is calculated to endanger the existence of our cherished Union. A want of fidelity to the solemn compacts of the Constitution, and an attack upon the rights of the states which are governed by it, can have no justification or excuse."⁴⁸⁰

On November 28, 1855, Governor Wilson Shannon transmitted a lengthy document to President Pierce, setting out fully the state of affairs in Kansas. Among other things he said, "Affairs in this Territory are daily assuming a shape of real danger to the peace and good order of society. I am well satisfied that there exists in this Territory a secret military organization which has for its object, among other things, resistance to the laws by force.

"Until within a few days past I have looked upon the threats of

⁴⁸⁰History U. S. (Harper Bros., '93), Vol. II., p. 83.

⁴⁸⁰5 Kan. Historical Cols., 193.

leading men and public papers who have placed themselves in an attitude of resistance to the laws, as not intended by those who made them to be carried into execution. I am now satisfied of the existence of this secret military organization, and that those engaged in it have been secretly supplied with arms and munitions of war, and that it is the object and purpose of this organization to resist the laws by force."

On November 21, 1855, Dow was killed by Coleman. As I have already shown, men armed with Sharp's rifles resisted the officers who attempted to execute the laws after that affair, and concerning this matter the governor says, "In the settlement in which these transactions took place there were from sixteen to twenty law and order families, and about one hundred free-soil families. At the last advices three of the houses of the former [who were the Southern families] had been burnt down by this armed band. Cattle had been killed, and a considerable amount of corn and other personal property destroyed, and the whole law and order population of that neighborhood, induced by terror, had fled, except two families, whose lives were threatened. Helpless women and children have been forced by fear and threats to flee from their homes."

It will be remembered that Governor Shannon had not alone these acts of small bodies of armed men upon which to base his conclusions, but that he had the expression of almost the entire abolition population gathered in a large and representative convention on August 14th and 15th prior to the above message. This convention had unanimously passed a resolution saying, among other things, that "the people of Kansas have been, since its settlement, and now are, without any law-making power," and that the people should meet for the formation of a "state constitution." There was then a call out, issued by the leading Northern sympathizers, for the famous Topeka convention, and this call was endorsed by the convention of 14th and 15th. After extensive advertising, another large convention of the insurrectionists met at Big Springs September 5th,—which I have already mentioned. This gathering passed some daring resolutions, and renewed their repudiation of the legislature and all laws passed by it. They said, "We owe no allegiance or obedience to the enactments of the spurious legislature . . . every man is at liberty to resist them . . . we will endure and submit to

these laws no longer . . . and will resist them to a bloody issue . . . we recommend the organization and discipline of volunteer companies, and the procurement and preparation of arms."⁴²¹ But arms had already been procured. I have called attention to the fact that about the 1st of April prior to these conventions, Major Abbott had arrived in Kansas with the first instalment of Sharp's rifles,⁴²² and that on August 20th of this same year Mr. Lawrence had written concerning another supply of guns, "This instalment of carbines is far from being enough. I hope the measures you are taking will be followed up until every organized company of trusty men in the Territory shall be supplied."⁴²³ He had declared his readiness to furnish all that would be wanted, the North had been canvassed, Thayer, "like a flaming meteor," had aroused the North, men had been furnished, money raised by popular subscription had been donated: the rebellion was well planned, lavishly aided, warmly encouraged, and constantly supported by dangerous numbers throughout the length and breadth of the North. Organized companies, sworn secret organizations, abundant improved arms accompanied by all the needed munitions of war, open acts of violence, bloodshed, and sedition in Kansas, paved the way for the consummation and operations of the Topeka pseudo government. The most unqualified popular free-State aid was rendered the completion and sustenance of this rival government. Thus hostilities which had begun in the Branson rescue came rapidly with an ever-widening sweep.

⁴²¹Wilder, *Annals of Kan.*, 55.

⁴²²*Supra*, 183-4.

⁴²³*Supra*.

X.

CUMULATIVE EVIDENCE OF NORTHERN REBELLION.

FURTHER LIGHT FROM OFFICIAL RECORDS.

From a study of Robinson's, Thayer's, Spring's, and many similar writers, respective histories, and the works of all who may be called contemporaries with the events under consideration who have written from a Northern standpoint, the student will readily see that an effort is constantly made to leave the impression that, no matter how greatly the Territorial legislature's laws were detested and spurned, the insurgents bowed loyally in recognition of the dignity and authority of the United States. Most of the books touching this period have been written in the light of later years. To tell the entire story is to criminate the North—a great body of the North, “rich New Englanders,” to use Mr. Channing's words, for whose actions the North as a whole must be held accountable just as the North holds the South accountable for what a large and influential class of her people did. Rosser Johnson, an ex-Union officer, and among the most bitter of partizan writers, admits that “carloads of improved rifles, paid for by popular subscription, were sent to the Free-State settlers.”⁴⁸⁴ Whatever resulted from this “popular” aid, the private abetment, the encouragement which State legislatures gave by legalizing organizations having the agitation of Kansas questions in view, make the North equally guilty—“accessories before the fact,” to use a legal expression. So it was hoped by all who have written having Northern prejudices that disloyalty to the Union, which the North professed to love with a devotion that death only could destroy, would either not be seen, or if seen, seen under the most favorable conditions. Nevertheless, rebellion is plainly written upon the pages of Kansas history; and it was a rebellion limited in scope and results simply because events forced the South to de-

⁴⁸⁴Short History of the Civil War, 23.

clare the dissolution of the Union before the full fruition of the Northern scheme.

Much stress has been placed upon what is called the attack of Sheriff Jones upon Lawrence in the fall of 1855. We have seen that Lawrence was the stronghold of the rebellion. It had been fortified and well armed. Too many writers have left us to believe that this so-called attack was the work of marauding Missourians. Such is far from the truth. This affair grew out of the resistance which the insurgents had made to the officers who were going about their duty in the enforcement of the laws of the Territory, and who had been elected at the election of March 30th,—the legality of which election I maintain has been fully established. As stated previously, Dow was killed November 21, 1855.⁴⁴³ In harmony with Northern writers generally, the distinguished Northern historian, Rhodes, concerning the state of affairs up to this time says, "Until now there had been no collision between the opposing forces . . . in the main, the contests were of political expedients."⁴⁴⁴ Fully prepared, fully armed, and seconded by wealthy and influential men in the North, the seditionists took the first opportunity to carry into practice the declarations of their conventions, of their papers, of their speakers, and of their supporters and backers. It will be remembered that the fight between Coleman and Dow grew out of a dispute over a land claim.⁴⁴⁵ Which of these was to blame cannot now be known, but that point has nothing to do with the events to which it gave rise. It furnished the opportunity for which the Northern men sought. Coleman was in the hands of the officers and held for trial, but on the next day after the homicide a large indignation gathering of Northern men met at the scene of the homicide; without waiting for the action of the civil authorities, they openly swore vengeance. This led to the issuing of the peace warrants sworn out by Harrison Buckley, one of the men whose life this riotous gathering had threatened, and whose private dwelling, together with that of prisoner Coleman, was in the night time fired and burned. Five days after the shooting of Dow, Branson, one of the rioting party, was arrested under the process held by the offi-

⁴⁴³Kan. Historical Cols., Vol. V., 242, *supra*.

⁴⁴⁴History U. S., Vol. II., 103.

⁴⁴⁵Repts. Coms., 2 sess., 36 Cong., No. 104, Vol. III., pt. 1, p. 14.

cers. J. B. Abbott, who previously to that time had gone North and returned to Kansas with a large supply of Sharp's rifles and other war material, and S. F. Tappan, who was the clerk of the "so-called Topeka State Government," led twelve or fifteen men from Lawrence and vicinity, armed with Sharp's rifles and other guns, and intercepted the sheriff and his prisoner. By intimidation and show of force they compelled the officer to release his prisoner.⁴³⁸ Writs were issued for these Branson rescuers, who had retired under the protection of the organized forces in Lawrence. Armed with these writs and under orders from the Federal governor and accompanied by the militia, Sheriff Jones, who had held his commission from the governor since August previous,⁴³⁹ proceeded to Lawrence for the purpose of making the arrests. It was well known that the Lawrence people were defiant, well armed, and threatening. The town was known to be the military headquarters of the insurgents. Robinson had by them been elevated to the rank of "Major-General" of the insurrectionary forces.⁴⁴⁰ Both he and "Colonel" Lane had headquarters there. These facts led the sheriff to take a large force. Among those who went with him were a number of men either recently from or yet living in Missouri. While it was entirely legal for the Missourians to go, since a Territory, as was Kansas, being under the peculiar jurisdiction of the United States, may secure citizens from any State to enforce Territorial laws and regulations,⁴⁴¹ yet the fact that Missourians were in the crowd gives the untenable ground for the claim that this was a "Missouri raid." Let the official records give us the correct version of the part taken by Missourians in this affair. On December 11, shortly after the "raid" or "battle," Governor Shannon, in an official report to President Pierce, says, "... Indeed, the militia of the Territory being wholly unorganized, no force could be obtained except those who voluntarily tendered their aid to the sheriff, or to Generals Richardson and Strickler. The whole force in the Territory thus obtained did not amount to more than three or four hundred men, badly armed, and wholly unprepared to resist the force at Lawrence, which

⁴³⁸In the government document containing one of the reports of the Kansas affairs, 36 Cong., there is a misprint in Abbott's initial.

⁴³⁹Kan. Historical Cols., Vol. V., 281.

⁴⁴⁰Spring, History Kan., 33.

⁴⁴¹Ib., 255.

amounted at that time to some six hundred men, all remarkably well armed with Sharp's rifles and other weapons. These facts becoming known across the line in the State of Missouri, large numbers of men from that State, in irregular bodies, rushed to the county of Douglas, and many of them enrolled themselves in the sheriff's posse. . . . I found Generals Richardson and Strickler had very judiciously adopted the policy of incorporating into their respective commands all the irregular forces that had arrived. This was done with a view to subject them to military orders and discipline, and to prevent any unlawful acts or outbreaks. The great danger to be apprehended was from an unauthorized attack on the town of Lawrence, which was being strongly fortified and had about one thousand and fifty men, well armed, to defend it, with two pieces of artillery. While on the other side, there were probably in all near two thousand men, many of them indifferently armed, but having a strong park of artillery. I found in the camp at Wakarusa a deep and settled feeling of hostility against the opposing forces in Lawrence, and apparently a fixed determination to attack that place and demolish it and the presses, and take possession of their arms. It seemed to be a universal opinion in camp that there was no safety for the law and order party in the Territory while the other party were permitted to retain their Sharp's rifles, an instrument used only for war purposes."⁴² The forces within the limits of the town showed the muzzles of their guns and held off the sheriff's party with shot and shell. After much ineffectual firing between the pickets of the two parties, the strongly fortified position, the improved guns—two hundred of the insurgents being armed with Sharp's rifles,⁴³ the commanding position of the Northern cannon, and "the five small forts" which commanded the approaches of the town, and within the lines of which six hundred men "drilled incessantly,"⁴⁴ induced Sheriff Jones and the militia officers, Generals Richardson and Strickler, associated with him, to allow Governor Shannon to enter Lawrence and call a meeting of the leading insurrectionists in an effort at pacification in whatever way the preservation of peace and the prevention of extensive bloodshed, might

⁴²Sen. Docs., 3 sess., 34 Cong., Vol. II., 64.

⁴³Spring, History Kans., 92.

⁴⁴Ib.

be found to comport with a due enforcement of civil law. The solution the governor thought he had found.⁴⁴⁵ He so reported to the militia and those who had come from Missouri, whereupon they quietly retired.⁴⁴⁶ In conclusion of the negotiations, a "treaty" was made in which the authorities in command at Lawrence, Dr. Robinson being conspicuous, declared "that we have no knowledge of the previous, present, or prospective existence of any organization in said Territory for 'resistance of the laws'; they then pledged themselves to aid in the enforcement of the law when called upon by the "proper authority in the town or vicinity of Lawrence."⁴⁴⁷ February 14, 1856, Dr. Robinson wrote to the editor of the *Herald of Freedom*: "He [Governor Shannon at time mentioned above] was told plainly, as were the parties at Franklin, that the people of Lawrence, and the Territory generally, repudiated the Territorial legislature and its acts, but there was no organized opposition to them, every man acting as he thought best."⁴⁴⁸ That the beleaguered insurrectionists resorted to subterfuge,—played the governor "a cute Yankee trick," as one of them expressed it to G. D. Brewerton, of the New York *Herald*, December, '55, which gave time for the fugitives to escape,⁴⁴⁹ and that this statement of Robinson and similar declarations that there was "no organized opposition," made to Shannon and in the "treaty" with him, were the most gigantic mis-statements, the facts herein already given and those to follow leave not the slightest doubt. However, as news of the result of this first open conflict spread in the North, it was taken as a free-State victory; and Mr. Rhodes adds, "and the North learned that there was a resolute party in Kansas determined to make a fight for a free-State."⁴⁵⁰ Just six days before the Branson rescue, Governor Shannon, a Federal officer, had issued an official proclamation calling upon *all* citizens to aid Sheriff Jones in serving his writs and in otherwise enforcing the laws enacted by the legislature. The Branson rescue and the resistance at Lawrence were in direct disregard of this Federal proclamation, no less than violations of the local Territorial laws.

⁴⁴⁵Repts. of Coms., 36 Cong., 2 sess., Vol. III., 934-937.

⁴⁴⁶Ib.

⁴⁴⁷5 Kans. Hist. Cols., 246.

⁴⁴⁸5 Kans. Hist. Cols., 249.

⁴⁴⁹The War in Kan. (1856), 60.

⁴⁵⁰History U. S., Vol. II., 106.

In addition to what has been herein given, from two sources we have other evidence of *organized* opposition to the laws and Territorial government—an organized opposition begun and aided in the North and carried out in Kansas: (1) In 1858, or '59, an effort was made to induce Kansas, an effort which was afterward applied to the Government of the United States, to reimburse the losses sustained from the time of the Branson rescue up to the time of the effort for reimbursement. Evidence was taken *ex parte*, and generally it is that given by the Northern party. Now and then in the printed pages we find a Southern adherent asking a reimbursement for some damage, but such is rather the exception. This evidence was gathered by three commissioners appointed by Kansas for the purpose of auditing the claims, and was printed with a Congressional committee report, when the matter was before Congress, in Reports of Committees, Thirty-sixth Congress, second session, volume 3. Its early date, and the fact that we have the sworn statements of many of the leading rebels, make it a source of valuable evidence cumulative to that already given. (2) Another valuable source, bearing upon the events under consideration, is the official reports of the United States Army officers who served in various positions in Kansas from its Territorial creation to the close of 1860.

From the evidence in the claims cases we have very positive statements of the war footing which began early in 1855 and which first came to open resistance in the Branson rescue. For instance, in a sworn deposition given May 29, 1859, the prominent insurrectionary leader, Jas. H. Lane, says that from November, 1855, "the condition of affairs was an actual state of war." "Opposing armies were in the field during that war—the free-State men had in the field, at the same time, 800 or 1,000 men, concentrated at Lawrence, and there fortified with wood and timber and earth breastworks, seven in number. . . . The main army," he continues, "was kept in the field from the latter part of November till the middle of December, 1855, when the main body was disbanded, retaining, however, in actual service a sufficient number of companies to serve a nucleus (being regularly drilled), to man the fortifications and prevent surprise. These companies were thus retained in service at Lawrence until April, 1856."⁴⁵¹ But the disbandment was by no means

⁴⁵¹Repts. Coms., 2 sess., 36 Cong., Vol. III., 945.

the conclusion. From the very first, "foraging parties brought in cattle" for the Lawrence "army."⁴⁵² Lawrence was put under martial law,⁴⁵³ and from November, 1855, on, so Dr. Chas. Robinson states in one deposition before the claims committee, no man would have been permitted to have removed his goods, provisions, or supplies, "as it was important to maintain an appearance of confidence and stability."⁴⁵⁴ These troops of the rebellion quartered and fed upon private individuals without their consent and without paying for what was obtained. In one case one hundred persons daily fed upon one young woman until they broke her health and ruined her business.⁴⁵⁵ They paid her nothing and fed against her will. The rebel leaders, Dr. C. Robinson and G. W. Deitzler, stated on oath that "she was reduced from comparative comfort to almost destitution."⁴⁵⁶

Following these events, January 24, 1856, President Pierce officially endorsed the legislature elected by the Southern people resident in Kansas, which historians generally call the Lecompton legislature. Also, he officially declared the government which the insurgent abolitionists attempted to set up, revolutionary and an act of rebellion.⁴⁵⁷ From this recognition of the Lecompton Territorial government by the chief executive of the United States on to the close of hostilities, all repudiation or armed resistance was undoubted rebellion,—not alone against the Territorial laws and authority, but against the lawful authority of the United States. The highest authority in the land before whom the question had come, Congress and the President of the United States, declared the laws of the recognized Kansas Territorial legislature legal, valid, binding; and the official proclamation that all resistance was rebellion, was enforced by the Secretary of War,⁴⁵⁸ and that entirely irrespective of party or section.⁴⁵⁹ Did Robinson, Abbott, Lane, Reeder, Lawrence, and their many hundreds of co-conspirators, desist? Did the North bow loyally to the United States Government?

⁴⁵²Ib., 947.

⁴⁵³Ib., 934.

⁴⁵⁴Ib., 943.

⁴⁵⁵Ib., 342.

⁴⁵⁶Ib., 344.

⁴⁵⁷Wilder's *Annals of Kan.*, 90; *Kan. Hist. Cols.*, Vol. V., 253, 236, 259, 260.

⁴⁵⁸*Kan. Historical Cols.*, Vol. V., 260.

⁴⁵⁹*Sen. Docs.*, 3d sess., 34 Cong., 49, 50.

Did she hear the command of the chief of the armies of the Union? Did the thousands in the North withdraw their support and comfort? The very reverse is true; Northern clamor grew louder and the active rebels grew bolder. On the second of the following February, the "New York *Tribune* declared that the duty of the people of the free-States is to send more true men, more Sharp's rifles, more field pieces, and howitzers to Kansas." Similar sentiments were echoed all over the North.⁴⁶⁰ Says Mr. Rhodes, "Public meetings in aid of Kansas were held all over the free States, and committees to collect money and use it properly were appointed."⁴⁶¹

On the 11th of February of the same year and within a few days of that time, proclamations were issued respectively by the President of the United States and by the governor of Kansas, both of which declared that the assembling of the Topeka legislature "would constitute the fact of insurrection"; and those who claimed to constitute that body were forbidden "from assembling, organizing, or attempting to organize, or act in any legislative capacity whatsoever."⁴⁶² March 26th, following, Jefferson Davis, Secretary of War, directed Col. Sumner, commanding United States troops in Kansas, to repress lawlessness of every character, and "to make no discrimination, founded on the section or country from which persons might or had come." This order was again emphasized by him from the War Department August 27, 1856.⁴⁶³

On April 11, 1856, the governor of the Territory officially announced that, "The charges made in some of the public papers, and in other quarters, that there exists an armed organization in Missouri for the purpose of making an aggressive movement into this Territory, never had any foundation in truth to rest upon."⁴⁶⁴ As in the past, so from now on as the movements of all parties are given us by the army officers through their various official reports and correspondence, the truth of this statement of the governor will be evident because (1) no important party or number of Missourians were ever armed for aggression; (2) except the fewest cases of wholly irresponsible and small parties, to be noticed later,

⁴⁶⁰Rhodes, *History U. S.*, Vol. II., 152.

⁴⁶¹*Ib.*, 153.

⁴⁶²Sen. Docs., 3d sess., 34 Cong., Vol. III., No. 5, p. 58.

⁴⁶³*Ib.*, 60.

⁴⁶⁴Sen. Docs., 3d sess., 34 Cong., Vol. II., p. 67.

those who came from Missouri or other Southern localities, always retired quietly and without molesting others, when they understood that the laws would be respected, or their friends and relatives left unharmed; (3) they made no organized movement except such as conformed to the orders of lawful Territorial officers.

In the absence of the governor, the secretary, Daniel Woodson, was the acting governor. In an official communication to him, Col. E. V. Sumner, commanding the first United States cavalry, June 28, 1856, said, "I have sent Major Sedgwick with two companies to Topeka to prevent the assembling of the so-called Topeka legislature. I am decidedly of opinion that that body of men ought not to be permitted to assemble. It is not too much to say that the peace of the country depends upon it. In this affair it is proper that the civil authorities should take the lead, and I would respectfully suggest whether it would not be better (if you find they are bent on meeting) to have a justice of the peace and a marshal in person join Major Sedgwick, and have writs drawn and served on them the moment they get together. . . . If you think there is a possibility of having any difficulty in carrying out this measure, I will thank you to apprise me of it in time for me to get there; for it is right that I should take all responsibility whenever we have to use force."⁴⁶⁵ On the 30th of June the officers commanding United States forces reported Lane "with a very large force" of Northern men moving to Topeka for the avowed purpose of protecting their legislature.⁴⁶⁶ On the 3d of July Gen. Smith reported that, "The persons chosen under the new constitution as members of the legislature of the 'State of Kansas,' were adjourned to meet on the 4th of July."⁴⁶⁷ This meeting of itself, under both the President's and the governor's proclamation, was rebellion—and rebellion supported and protected by armed force.

Pursuant to adjournment, on the morning of July 4th the members of the seditious "Kansas State" legislature gathered at Topeka. Col. E. V. Sumner had a United States marshal read in the hearing of all the people the proclamations of the President and of the governor, both of which forbade the assembling or the attempt to assemble of the Topeka legislature, and declared that any one of

⁴⁶⁵Sen. Docs., 3d sess., 34 Cong., Vol. III., 53-4.

⁴⁶⁶Ib., 55.

⁴⁶⁷Ib., 56.

such act would constitute sedition and rebellion. In his report to Col. S. Cooper, adj.-gen. U. S. A., Col. Sumner says, "A part of the members complied with them, and did not assemble; but a number of both houses determined to meet at all hazards, and I was obliged to march my command into the town and draw up in front of the building in which the legislature was to meet."⁴⁶⁸ He then went in and dispersed both branches. In another report Col. Sumner also said, "The free-State legislature of Kansas, elected and organized without law, was considered by the governor and myself as 'insurrectionary,' and under the President's proclamation of February last, we felt bound to suppress it. If it had been suffered to go on it must have led to the most serious consequences. Even if they had not attempted to put their laws in force, the very enactment of them, together with the other proceedings of an organized legislature, would have encouraged the free-State party in still more decided resistance to the laws which the President had decided must be maintained. Under the circumstances I felt it to be my duty to maintain the proclamation of acting Governor Woodson. The marshal was sent into Topeka to read this proclamation, and also the President's, and I had previously informed the people that I was very anxious that they should comply with them and not compel me to display force on the occasion. When the marshal returned to my camp he reported to me that the legislature would assemble in defiance of the proclamations. I knew that there was a large body of men there to sustain this act."

Gen. P. F. Smith succeeded Col. Sumner to the command of the United States Army, department of the West. On July 14th in an official communication he said that the funds furnished "from without" kept lawless bands spread over the "country robbing, and even murdering."⁴⁶⁹ He continues, "On the 28th of June, at Iowa City, Col. Lane raised \$2,000 by subscription, and had about two hundred and fifty men, whom he said would march, with a large reinforcement from Chicago, across Iowa to Council Bluffs."⁴⁷⁰ Shortly afterward Lane and his reinforcements arrived and began to resist legal officers and to pillage and to murder.

Northern papers kept busy declaring that the free-State people

⁴⁶⁸Sen. Docs., 3d sess., 34 Cong., Vol. III., 57.

⁴⁶⁹Ib., 65.

⁴⁷⁰Ib., 58, *et seq.*

in Kansas had petitioned the officers commanding United States troops for protection. In an official communication Gen. Smith referred to these reports and denounced them as "gross fabrications," and said "there is no foundation for any of them."⁴⁷¹

It is interesting to note that General Smith was born in Pennsylvania. He was distinguished, in the words of General Winfield Scott, in our war with Mexico as a brave, able, "cool, unembarrassed, and ready" soldier. He died in Kansas in 1858.

I can pause to notice but a few of the open acts of violence perpetrated, as shown by these army official reports, by the organized rebels. Several times previous to the middle of August, 1856, they had attacked and fought the United States troops while in the discharge of Federal duty.⁴⁷² Those who so desire may consult the original records for the numerous details. I mention a few more of the more noted of their deeds of bloody violence. On August 17th Major Sedgwick reported 800 armed rebels in Lawrence.⁴⁷³ He reports that the free-State rebels, near the same date, attacked the town of Lecompton. With a six-pounder they destroyed the home of Col. Titus, killed one man, wounded Titus, and secured him and other prisoners.

This is the same Major Sedgwick, who became the Union general of Gettysburg fame, and who lost his life at Spottsylvania C. H., May 9, 1864. He was a native of Connecticut.

Nor were their depredations confined to killing and robbing only Southern men and such as sympathized with the Southern position. Many of their own party were forced to support the army. Congress was afterward asked, as I stated above, to pay for the damages committed by the various companies and bands who scattered desolation and ruin in the name of a "free-State where white men only may not come in competition with the negro, free or slave," in almost every settlement of the Territory. Turning again to the volume containing the evidence gathered by the committee who were assigned to audit these claims, we find a free-State man swears "that about the last of August, 1856, a company of ragamuffins, under the command of General Lane," destroyed his corn, burned his

⁴⁷¹Ib., 67.

⁴⁷²Ib., 44.

⁴⁷³Ib., 72.

house, and drove a peaceable pro-slavery neighbor from home."⁴⁴ Another witness swore that in this same month this same Jas. H. Lane and his men "armed with Sharp's rifles, Colt's pistols, bowie-knives, and other deadly weapons," committed bold robbery.⁴⁵ (If the reader will turn back to the description given by a Northern writer, and quoted above, which he meant to apply to a "Missouri ruffian," he will surely agree with me that that writer mistook one of his own countrymen armed by prominent Northern ministers of the Gospel and other substantial citizens, as that "soldier" moved out to murder and wanton rapine in the name of the "free-State of Kansas.")

On August 29th, Gen. P. F. Smith, reporting to the adjutant-general of the U. S. A., after speaking of the recruits brought in by Lane, and of the numerous reports that these men under Lane's leadership were "engaged in robbing, murdering, and driving out of the Territory all those who were of a different opinion from themselves," adds that expeditions, inspired by these reports and rumors, seem to be preparing on all hands to enter the Territory and avenge the wrongs inflicted on Southerners and their friends. "Exaggerated and false as many of these rumors have been," he continues, "there is some truth in the foundation of them. A large number of men brought by Lane from the East have entered Kansas in small parties, and with their arms concealed. They arrived mostly at Lawrence, where they completed their organization. They robbed all the country within their reach of the horses, and finally attacked the house of the postmaster at Franklin, probably with a view of getting possession of some arms issued to the militia, and deposited there. They wounded some and made prisoners of others defending the house, and set fire to it, having robbed the postoffice." After detailing other depredations, he adds, "I do not think it was proper to prevent citizens from the neighboring border of Missouri coming over to aid and protect their relatives and friends from the outrages offered by the parties from Lawrence and Topeka."⁴⁶

Sept. 23d, General Smith's report was considered at the War Department by Secretary Jefferson Davis, who endorsed: "The only distinction of parties which, in a military point of view, it is neces-

⁴⁴Repts. Coms., 2 sess., 36 Cong., Vol. III., pt. 1, 919, 923, 924.

⁴⁵Ib., 775.

⁴⁶Sen. Docs., 3d sess., 34 Cong., No. 5, p. 78.

sary to note, is that which distinguishes those who respect and maintain the laws and organized government from those who combine for revolutionary resistance to the constituted authorities and laws of the land. The armed combination of the latter class come within the denunciation of the President's proclamation, and are proper subjects upon which to employ military force."⁴⁷⁷

In the latter part of August, John W. Geary succeeded to the Governorship of Kansas Territory. Sept. 11, 1856, he disbanded the militia,⁴⁷⁸ and delivered a strong address to the people.⁴⁷⁹ Reporting to the adjutant-general, Col. S. Cooper, General Persifor F. Smith said, "The good sense and respect for law which has been evinced by companies from Missouri has made the prompt and energetic action of Governor Geary entirely successful, and the road is now clear for our operations (already begun), without waiting for or requiring the presence of other troops."

But these sanguine views were not speedily to be fulfilled. On Sept. 15, 1856, so sickening had become the outrages committed by companies fitted out from Lawrence, that General Atchinson, ex-vice-President of the United States, and General Reed, organized a large force in Missouri, crossed the border, gathered what Kansas militia they could, and moved to attack and destroy Lawrence. They came "with banners flying," "uniformed and well armed," twenty-five hundred men, horse and foot, and had "a strong six-pound battery." Governor Geary and Lieut.-Col. Cooke, the latter in command of United States troops watching the Lawrence insurrectionists as well as the movements of all parties, went out to meet this coming army. They demanded that the Missourians retire and that all go home. Speeches by both sides were made, and Col. Cooke and the governor assured all parties that they would enforce law and stop outrages. In his report the colonel says, "Authority prevailed, and the militia honorably submitted to march off to be disbanded at their place of rendezvous." And that Missourians and all did return home is shown by what he says later in the same report: "Lieut.-Col. Johnston returned at 4 P. M., and reports that the main body of the militia, or Missourians, having passed the

⁴⁷⁷Ib., 83.

⁴⁷⁸Ib., 119.

⁴⁷⁹Ib., 116.

Wakarusa six miles beyond Lawrence yesterday evening, were nowhere to be seen by the patrols this morning at that or another point above.⁵²⁰

This report was made to Major F. J. Porter, under whose supervision all these movements at that time came. Major Porter was a native of New Hampshire. He was the son of Capt. John Porter, of the U. S. N., and nephew of Commodore David Porter, who commanded the famous frigate *Essex* in 1812-'14. He was distinguished in the war with Mexico, and was for two years on duty at West Point Military Academy. In the Union Army of the Civil War he attained the rank of brigadier-general. Except some troubles between himself and General Pope, his record was that of "a thoroughly capable, judicious, and brave soldier";⁵²¹ while at no time was his loyalty to the Union cause ever questioned. As late as 1886 he held civil office in New York City.

Capt. Thos. J. Wood, afterwards brigadier-general, who served with distinction in the Union army throughout the Civil War, and who was regularly retired with the rank of brigadier in 1871, in an official report from his camp near Lecompton, Sept. 16, 1856, says:

"... I learned at the ferry at Lecompton that a large band of marauders, commanded by a person named Harvey, and who is reported to hold the rank of colonel among the organized disturbers of the peace of the Territory, had marched from Lawrence the previous night for the purpose of attacking some settlement or settlements in the district in which I had been ordered to afford protection. . . . About an hour later the messenger who had been sent to Hickory Point returned, and reported that Harvey's party had attacked Hickory Point at 11 o'clock in the forenoon, and were probably still somewhere in that vicinity, as the attack, from all the information he had obtained, had been made by a force of some three hundred and fifty men, provided with artillery and baggage wagons. At 9 I moved toward Hickory Point, marching very rapidly. About 11½ o'clock I met an armed party, numbering about twenty-five men, on the road leading from Hickory Point to Lawrence. I halted them, and asked who they were, whither they had been, and

⁵²⁰Ib., 122.

⁵²¹The Nat. Cy. Am. Blog.

whither they were going. To these questions they replied that they were 'a part of Colonel Harvey's command; that they were returning to Lawrence from Hickory Point, and they had been engaged in the attack that day on the latter place.' They were well armed with muskets and Sharp's carbines, and had with them three wagons, in one of which there was a man who had been wounded in the attack. The deputy marshal arrested them in the name of the United States, and required them to lay down their arms, which requirement I enforced." He then moved on and surprised Harvey's camp "before there was time to make any preparations for resistance or escape." He continues: "I immediately rode into the camp accompanied by the marshal. The men in camp acknowledge themselves to belong to Harvey's party, and that they had been engaged in the attack on Hickory Point, which fact was well attested by the presence of several wounded men in the camp; and furthermore, they acknowledged that they had marched from Lawrence the previous night to make the attack. The marshal arrested all of them in the name of the United States, and required them to lay down their arms, which I enforced. They laid down their arms with considerable hesitation, and would perhaps not have done so at all, but that they found themselves entirely surrounded by a force sufficient to enforce the marshal's orders. . . . The marauders were well armed with muskets, and Sharp's carbines, hunting rifles, revolving pistols, bowie-knives, etc., and had one piece of artillery, a four-pounder." Capt. Wood captured 101 men, and learned that those actually engaged in the attack had numbered about 200 men, of whom about 150, from the best information that this officer could get, were from Topeka.⁴²⁵ He secured "47 Sharp's carbines, 38 muskets, 6 hunting rifles, 2 shotguns, 20 revolving pistols, 14 bowie-knives, 4 swords, and one piece of artillery, with a large supply of ammunition for all arms," and adds: "Doubtless many arms were thrown away by the marauders, as some of those brought in were picked up in the grass by my men."⁴²⁶

So determined were the anti-Southern party of the North to force upon the country a war, that it was only by the utmost vigilance that the regular army thwarted the design. Typical of the methods

⁴²⁵Ib., 125.

⁴²⁶Sen. Docs., 3d sess., 34 Cong., No. 5, 126.

of suppression are such as the following: To Col. Cooke Gen. F. J. Porter, assistant adj.-gen., on Oct. 5, 1856, sent an order in which he directs a careful inspection of all emigrants, and orders "by a careful examination to insure yourself that they form no part of organized armed bodies or Lane's men. Should they enter the Territory with cannon, or form any portion of Lane's command, you will not believe their professions, but take them prisoners and disarm them."⁴⁸⁴

That these precautions were well taken, a glance back at the report of Col. Cooke to Maj. Porter of Sept. 20, 1856, will more than assure us. He says, "Lane attacked the assembled neighbors of *both* parties—assembled for protection at Hickory Point—on Saturday, demanding their surrender on pain of no quarter being shown to them. His proceedings were cowardly, and he sent to Lawrence for reinforcements; and on Sunday, he probably being gone, one hundred and fifty men from Lawrence, with a four-pounder, fired on some fifty men and some women five hours. A dozen or more cannon balls struck the log houses. They killed one man, and are all guilty of murder."⁴⁸⁵

Turn once more to the civil side of this rebellion. Organization much more complete than that of numerous revolutions which in the end have succeeded, marked the thoroughness of the early plans. Dr. Chas. Robinson, Jas. H. Lane, G. W. Deitzler, and Goins Jenkins were constituted a semi-legislative and executive body in whose hands the rebels lodged the sovereignty of the "State of Kansas," until such time as the several regular departments of government could assume the duties of their several functions. Among the early acts of this body, involving an exercise of their assumed sovereignty, was the issuing of script. This was a kind of circulating medium differing in no essentials, other than that this purported to be on the authority of a "State," from the early issues of bills by the Confederate States. Among the claims affidavits we find their own sworn statements that this "war script" was received at par for all purposes "the same as though it were cash and no discrimination was made on the sale of goods for script or cash."⁴⁸⁶ This bold assumption

⁴⁸⁴Ib., 131.

⁴⁸⁵Ib., 134.

⁴⁸⁶Repts. Coms., 2d sess., 36 Cong., Vol. III., 937.

of sovereign power was further manifested by requiring the citizens to receive this script.⁴⁸⁷ Many took it cheerfully to "sustain the drooping spirits of the settlers by a manifestation of confidence in the movement which none could dispute or doubt," said one free-State witness under oath.⁴⁸⁸ This governmental committee and others, so we are told by their own side under oath, gave "assurance on behalf of the free-State men of the Territory at large, that all script

VERBATIM WORDING OF KANSAS STATE REBEL SCRIPT.*

Wood cut: woman holding scales, supposed to be blind to her own interests.

Proclaim liberty throughout the land, and to all the inhabitants thereof.

No. 62. TOPEKA, November 26, 1855. \$20.

This is to certify that Cyrus K. Holiday, or bearer, is entitled, on presentation, to receive from the Treasurer of the

STATE OF KANSAS

Twenty dollars, with interest at ten per cent. per annum, for account as per bill on file, for the payment of which the faith of the State is pledged.

Attest—

J. K. GOODWIN, Sec'y.

J. H. LANE, Ch'n Ex. Com.

[The Kansas Freeman Print, Topeka, Kan.]

VERBATIM WORDING OF CONFEDERATE STATES SCRIPT.

No. Two years after the ratification of a treaty of peace between the Confederate States and the U. S. 11094.

Cut of building once used for Conf. legis.

FIVE.

THE CONFEDERATE STATES OF AMERICA will pay to bearer FIVE DOLLARS.

G Richmond, February 17, 1864.

A. DOAN,
For Register.

W. BOYD,
For Treasurer.

Head
cut of
man.

⁴⁸⁷Ib., 938.

⁴⁸⁸Ib.

*Brewerton, *The Kansas War* (N. Y., '56), p. 342.

should and would be redeemed by the committee, dollar for dollar, by the voluntary donations, subscriptions, and funds which, from the circumstances and nature of the impending struggle, and the interest manifested throughout the Northern States, they then felt assured would speedily come into their hands for the purpose of sustaining the object that the Lawrence people and their sympathizers and friends throughout the Territory were contending for."⁴⁸⁹ Here again is evidence, and that nearly contemporary with the events themselves, that this rebellion got its strength from the North. In November, 1855, "the free-State Executive Committee" issued \$15,-265.90 of this circulating medium, says Wilder. He furthermore says, "The first Topeka Legislature, as required by the constitution, made provision for its redemption."⁴⁹⁰

Various other instances of assumed civil authority are on record. One mentioned by Governor R. J. Walker in an official communication on Sept. 26, 1857, to Brevet-Brig. Gen. Wm. S. Horney, is perhaps most important. Said Governor Walker, "The insurgent government . . ., under the erroneous opinion that the troops had all been ordered to Utah, and would not be replaced by others, have passed a compulsory tax law, authorizing the seizure and sale of property, and exacting from their executive officers the enforcement of this ordinance under the solemnity of an oath. "He directed Gen. Horney to order troops to the vicinity of Lawrence to suppress this flagrant illegality."⁴⁹¹

These various assumptions of authority and efforts to exercise the functions of government, were, many of them, after the President's proclamation, and some of the boldest efforts at putting their governmental machinery in motion were persistently pursued for many months and in some instances for years thereafter and in knowing disobedience thereof. There was a reciprocal support, during all this time, between the civil authority and the armed soldiery. For instance, during 1856 all the stores in Lawrence were forcibly impoverished by armed free-State "soldiers" who paid nothing, but left the items "to be charged to the committee of safety and by them paid for as part of the expenses of the war."⁴⁹² In August of

⁴⁸⁹Ib., 938.

⁴⁹⁰Annals of Kans. (1886), 87.

⁴⁹¹Exec. Docs., 1 sess., 35 Cong., Vol. II., pt. 2, No. 2, p. 121.

⁴⁹²Repts. Coms., 2d sess., 36 Cong., Vol. III., 937.

that year, the entire town of Lawrence, with several hundred soldiers to support, could show but "fourteen sacks of flour, no meal, beef, or bacon of consequence."⁴⁹⁸ This "military organization, with patrols and sentinels at night, was kept up in Lawrence during December (1856) and January and February (1857)" to the number of five or six hundred.⁴⁹⁹ Even then, as we shall see, the end was not yet. The demand for food necessitated extensive stealing;⁵⁰⁰ men with wives sick in bed* were driven from home, and nothing of any value, from the "fat ox"⁵⁰¹ to almanacs,⁵⁰² escaped the destruction which followed the bloody tracks of this rebellion, as numerous sworn witnesses tell us in corroboration of the army officers of the United States, generally Northern men who followed the Union cause through the Civil War,—the deposing witnesses being generally Northern men and for the most part, in one capacity or another, engaged with the free-State party.

It would be unfair to fail to state that through the various claims depositions we now and then find a claim for damages on account of depredations committed by men from Missouri whom the witnesses describe as "drunken, marauding brutes in the shape and form of men,"⁵⁰³ "armed bands of marauding wretches,"⁵⁰⁴ etc. But the evidence touching depredations by Missourians or other Southern men discloses several facts: (1) Much of it is entirely guess work, such as the evidence of Michael Glen, who says, "It was destroyed by Missourians, as I suppose";⁵⁰⁵ or that of one Michael Przybytowicz,, whose stuff was burned in a barn adjoining a house which he declared he *believed* was fired by political enemies;⁵⁰⁶ or that of the witness who said they were "making pretty free, I guess, with property that they wanted";⁵⁰⁷ (2) there is no proof of *organized* invasions. I have given the official evidence, showing that such parties as entered the Territory from Missouri or the South

⁴⁹⁸Ib., 942.

⁴⁹⁹Ib., 940-3.

⁵⁰⁰Ib., 137, 138, 203, 919, 415, 1153, 1317, 1319, 1189.

*Ib., 298.

⁵⁰¹Ib., 261.

⁵⁰²Ib., 419.

⁵⁰³Ib., 1007.

⁵⁰⁴Ib., 375, 447, 148.

⁵⁰⁵Reps. Coms., 3d sess., 36 Cong., Vol. III., 487.

⁵⁰⁶Ib., 580

⁵⁰⁷Ib., 545.

were the result of spasmodic efforts to *counteract* Northern movements; (3) even these counteracting movements ceased voluntarily nearly two years before the Northern party was suppressed at the point of Federal bayonets; (4) comparatively the damage wrought by Southern invasions, if that word is preferred, was most insignificant.

One of the most noted and extensive of the depredating excursions from Missouri, as well as one which is representative, is that made in the fall of 1856 by G. W. Clark, with a band of about one dozen Missourians. "He threw down fences, destroyed crops, seized horses and cattle, burnt a few cabins, and occasionally drove an obnoxious settler out of the country," is the most serious indictment which Mr. Spring in his *History of Kansas* (p. 239) can bring against Clark. No one charges him with having killed any one; and whatever he may have done, there is one thing sure, he was entirely unsupported by the South or the Southern emigrants in Kansas or Missouri. His depredations and those of his men were entirely the work of a band of private outlaws. His raid in the fall of 1856, of which Spring speaks, it must be remembered, was the last of the so-called "raids by Missouri ruffians." "Clark's raid was the last considerable dash from Missouri into the Territory" until the outbreak of the Civil War.⁵⁰⁸ Of course, no one charges that there was ever a raid or "dash" from any other Southern quarter. But after Clark's raid the insurgents carried on the resistance to the authority of both the Territorial government and that of the United States, and also their excursions for pillage and marauding for three years. Mr. Spring admits that the Northern outlaws, armed as we have seen with Northern guns, "established a free-booting reputation that fairly intimidated pro-slavery adherents. The accounts of marauding incursions from Missouri, which appeared in contemporary prints, were mostly canards circulated by jayhawkers [assassins] as an excuse for their own depredations,"⁵⁰⁹ declares Prof. Spring.

From the opening of hostilities at Lawrence, then, in 1855, the impetus which the North had given the insurrection sent murderous bands of free-State men up and down in the land until the spring

⁵⁰⁸Ib., 241.

⁵⁰⁹Ib., 241-2.

of 1858. Well-planned evasions of and resistance to the civil laws enacted by the Southern legislature at Lecompton, which body had been confirmed by the President and the Congress of the United States, had a pretty clear field. Missouri was plundered, her homes robbed, men were taken to ignominious imprisonment, horses, and money were stolen, and death dealt out with lavish hand. Clark's raid was made a pretext for gratifying many personal and political enmities. The notorious Northern insurrectionist, Montgomery, caught, robbed, and plundered the homes of twenty Missourians on one of his raids. He accused these men of being in Clark's retaliatory excursion, but the truth was that no more, if so many, than one dozen were in Clark's party.⁵⁰⁵ Rapidly the situation grew more desperate, until its distress led to what is known as the Marais des Cygnes massacre. This occurred near Trading Post about May 19, 1858. It was led by Capt. Chas. A. Hamilton, formerly of Georgia, and said to be of an excellent and wealthy family. He was accompanied by a number of Missourians whose friends had either been robbed or killed by Montgomery, or some other marauding abolition band. Hamilton captured eleven men, five of whom he killed, and the others he seriously wounded. It seems that Hamilton was rather after personal enemies than those of a different political faith. However, as in the case of Clark, it was an affair with which the Southern cause had absolutely nothing to do. Neither he nor his men were armed by the pro-slavery party; and they were incited to the deeds by nothing other than a thirst for personal vengeance. It was an inexcusable homicide. I make no attempt to palliate the crime, though its justification might have been found in the unmitigated guerrilla war which the insubordination of the anti-slavery people had brought upon the country. It was in retaliation for numerous raids into Missouri. To us it is of most importance because it was the close of any aggressive move which might be ascribed to the Southern people in Missouri. On the other hand, the armed forces of the free-State rebels were in open insurrection from the first repulse of the Territorial and Federal authorities at Lawrence in December, 1855, up to their subjugation by the strong arm of the Federal authority, which was more than four years after the fruition of Northern grown rebellion on Kansas plains.

⁵⁰⁵Spring, History Kansas, 241.

Not alone was Kansas agitated and murdered; the entire country caught fire. Congress began to be disturbed. Bill after bill, measure after measure were proposed. Some proposed to send Lieut.-Gen. Scott with a large army to establish peace. "Toombs, of Georgia, submitted a plan of adjustment, the terms of which were fair and unpartizan." But through the opposition of anti-slavery Northern men the bill was lost in the House.¹⁰⁷ Congress could agree upon but one measure,—the appointment of a committee of investigation by the House of Representatives. Pursuant to this agreement, Hons. W. A. Howard, of Michigan; Mordecai Oliver, of Missouri, and John Sherman, of Ohio, were appointed and ordered to make an investigation. They began work April 14, 1856, at Kansas City, Missouri. They examined hundreds of witnesses, Mr. Spring says three hundred and twenty-three, and in July following rendered to the House the two reports accompanied by the evidence, to all of which I have so frequently referred in this discussion, and which I examined as fully as space and purpose would allow. However, in Kansas the troubles went on apace, as we have seen. The North continued her sympathy and support. Dr. Robinson, the "general in command" of the insurgents, was declared a traitor to the United States, arrested and imprisoned. In my closing chapter I show how the North, as it began to get possession of the machinery of the Federal government, used its strong arm to extricate him and his fellow-traitors. Lane, the second in command, continued at the head of hundreds of well-armed men. No request for help from the North was made in vain. Sheriff Jones was shot while in Lawrence on duty with United States soldiers. On May 8, 1856, ex-Governor Reeder resisted a writ in the hands of Deputy United States Marshal Fain, and threatened the officer's life. Reeder was trying to carry out his obligation to support sedition and to resist, even if doing so meant the loss of his life, the lawful authority; I refer to the obligation which I have herein previously given. The rejection of the fair and equitable plan from the South by Toombs showed that the North meant to crush the South by first beginning with the Southern people in Kansas. The unfairness and partisan character of the Northern members in Congress were attested by the character of the anti-Southern members on the committee

¹⁰⁷Spring, History Kans., 107.

of investigation. These members showed their unfairness not alone in their report, but by their actions while the investigation was in progress. For instance, while serving on the committee, Messrs. Howard and Sherman spent an entire night at Topeka in plotting with Robinson and W. Y. Roberts against the orders of the United States Territorial governor, and laws passed by the legally elected Territorial legislature. Speaking of this nocturnal conference, Mr. Spring, who is quoted by all Northern historians as authority, says, "The conclusions reached at the conference had a belligerent look."⁵⁰⁷ They agreed upon continued resistance, and Robinson was to go East for further help. No wonder we have a grossly partisan report from Messrs. Sherman and Howard; they were *participes criminis*. Pursuant to the agreement, Robinson started North, but was arrested and detained, as I have stated. Encouraged by the very men whose duty it was impartially to determine the questions involved, the insurgents became yet bolder and more aggressive. Then followed the massacre—one of the blackest in the annals of America—at Pattawatomie, in which John Brown incited and led a small band of the insurgents, Northern free-State men, to murder. Five unoffending Southern men were dragged from their beds, and "mortally hacked and slashed with cutlasses." Howard and Sherman, the Republican members of the investigating committee, declined to enter into an investigation of this revolting affair,—to investigate which and to report the facts to Congress was clearly within their duty; they had been ordered to investigate all alleged violations of law, whether it be that of the Territorial law or otherwise, as well as to inquire into all charges of fraud or force or intimidation in the elections.⁵⁰⁸ This refusal lent to the affair moral approval as well as indicated deep partisan prejudices. Shortly after this affair Brown and his insurgent forces fought a "battle" with a number of Missourians who were acting in conjunction with the United States forces. Sharp's rifles, contributed by public subscription or private Northern money, gave Brown the victory. Northern men, led by Brown, "armed with Sharp's rifles, pistols, bowie-knives, and other deadly weapons," flushed with victory, then fell to robbing stores—upon one raid they forcibly intruded into the

⁵⁰⁷History Kans., 115.

⁵⁰⁸App. Cong. Globe, 34 Cong., 1 sess., 636, 675, 690, 291.

private apartments of a young lady—and otherwise terrorized the land.⁵⁰⁹ From all over the Territory, especially from Lawrence, the “free-State men were astir.” In addition to the several leaders of the Northern party which I have mentioned, Walker, Crocklin, Abbott, Whinney, Shoe, all took the field with each his men well armed. The coming of Buford, of Alabama, accompanied by Titus, is generally misrepresented or improperly estimated. Buford and his men did not reach the Territory until May, 1856; this was shortly after his company had been gathered.⁵¹⁰ The Northern rebellion was then in full blast, and it was to counteract it that Buford left the South. His movement was on the principle of a “volunteer militia to sustain the laws” of what the President of the United States had declared to be the lawful legislature, but at the same time he meant to make every man he carried to Kansas an *actual settler*. January 19, 1856, in the *Alabama Spirit of the South*, he set forth the objects and requirements of his movement in plain words. He said, “By way of remunerating me for the privilege of joining my party, for subsistence and transportation to Kansas, and for furnishing means to enter his pre-emption, each emigrant agrees to acquire a pre-emption, and to pay me, when his titles are perfected, a sum equal to the value of one-half of his pre-emption, which obligation he may discharge in money or property at a fair valuation, at his own option. . . . I am asked, ‘What military and other service do I require?’ *None*, except that when he gets to Kansas, the emigrant shall begin some honest employment for a living—if it be working on his claim—that will give him credit to buy bread on. On his way there he is expected to be orderly and temperate, to attend to the reading of the Scriptures and prayer night and morning, learn to fear God, to be charitable to our enemies, gentle with females and those in our power, merciful to slaves and beasts, and just to all men.”⁵¹¹

His was the only considerable or important movement from the South. This party, no sooner than it entered Kansas, was ordered by those in command of the United States troops, whose business was to prevent all large parties of armed emigrants from entering

⁵⁰⁹Rept. Coms., 36 Cong., 2 sess., Vol. III., 1317, 1319; Spring, History Kans., 157; Rhodes, History U. S., Vol. II., ch. 7.

⁵¹⁰Repts. Coms., 36 Cong., 2 sess., Vol. III., 937.

⁵¹¹Quoted in Brewerton, The War in Kans. (1856), 213.

the Territory at that time, to retire. This they peaceably and without unnecessary delay did."⁵¹³ (See Clayton, under Authorities.)

The North was more determined. "A fierce agitation flamed and roared like a prairie fire from Boston to the Northwest," says a sympathizing Northern writer. New societies of abolition, or free-State, people were formed for the purpose of gathering aid for the conflict; one organization "harvested not less than two hundred thousand dollars for Kansas purposes." The Massachusetts committee secured large supplies in addition to eighty thousand dollars. "The Grand Kansas Aid Society," organized in Buffalo, New York, raised in July, 1856, two hundred thousand dollars."⁵¹⁴ "Eager cooperative activities awoke on every side" in the North."⁵¹⁵ Armed bodies of men continued to arrive. C. B. Limes, for instance, arrived from New Haven, Connecticut, with "seventy-nine resolute men," armed with Sharp's carbines. The famous Amos A. Lawrence and Dr. Samuel Cabot, of Boston, shipped at one time four thousand dollars worth of the famous Sharp's rifles. September 19, 1856, Rev. Theo. Parker wrote, "Dr. Howe and others raised five thousand dollars last week to buy Sharp's rifles. We want a thousand rifles, and got two hundred in one day."⁵¹⁶ On September 20th following, the same distinguished Boston minister read to his Sunday congregation reports by Northern writers concerning Kansas and the operations which the North was there supporting, omitted the Bible lesson, took up a collection on behalf of the rebels, and got \$300."⁵¹⁷ Well did these influential Northern men know that *before* this aid given by them, the President of the United States had declared the Northern sedition and resistance then in progress to be rebellion."⁵¹⁷ This money was for the same men, for the same cause, and to further nothing other than the identical rebellion then yet in progress against both Territorial and Federal laws. It was well known that there had been no change whatever in the situation. These Northerners knowingly shrank not from furnishing guns and money to active, organized rebels against the authority and government of

⁵¹³Sen. Docs., 3 sess., 34 Cong., Vol. III., 50; *Ib.*, Vol. II., 73.

⁵¹⁴Harper's Book of Facts, *Kansas*.

⁵¹⁵Spring, *History Kans.*, 164.

⁵¹⁶Frothingham, *Life of Theo. Parker*, 437.

⁵¹⁷*Ib.*, 438.

⁵¹⁷*Supra*.

the United States. This was none other than open war, yet it was none other than what these abettors and aiders wanted. Parker so declared on November 16, 1856, when he said, "We must settle this question by the sword. There are two constitutions for America,—one written on parchment and laid up at Washington; the other also on *parchment, but on the head of a drum.*"⁵¹⁸

Some of the contemporary writers, boasting of their bloody deeds, give us pictures which more recent historians shrink to repeat. Prominent among such early writers was William P. Tomlinson, a young New Yorker who went to Kansas in 1858. He wrote before the true import of what he recorded could be seen. There is not a line in his book which shows that the South, directly or indirectly, had any connection with the deeds of violence committed by a few individuals who were Southern born. Such men, I must be pardoned for repeating, were neither aided, encouraged, nor in any way abetted, either before or after the fact, by the South, or by Southern people or sympathizers. But there is much in Mr. Tomlinson's book to show the complicity of the North in the bloody rebellion against the Federal laws and authority and against the Territorial laws and authority. It is a valuable witness to corroborate the other evidence which I have adduced to sustain the counts in my indictment. He fully corroborates what Governor Shannon says in his report to the President, and shows that Shannon's fears were literally fulfilled. He fully sustains the scores of witnesses examined by the Congressional committee, which were introduced to show the sedition and its support from the North.

It will be remembered that we saw Major Abbott in Massachusetts, procuring and packing on a Sunday, under the auspices of the Emigrant Aid Company, Sharp's rifles and other munitions of war. It will be remembered, too, that this was long before Dow was killed, and shortly after the election of the legislature on March 30, 1855. About the time that Mr. Tomlinson was making his Kansas trip, this same Major Abbott was operating in full vigor on the Kansas plains. The major had instituted a "court" composed of free-State people; they were those who were in full sympathy with or actually engaged in the rebellion. Before this body he dragged and "tried" and fined his Southern or pro-slavery neighbors. Since

⁵¹⁸Ib., 440.

the days of the Feudal lords—in fact, the famous Spanish inquisition would be needed to furnish a parallel—such an abortion of law, order, and justice has not been known. He made no pretence to authority other than that which he professed to derive from the rebellious government or from force. On one occasion a United States officer, Marshall Little, was sent to take “Judge” Abbott and his “court officers.” Tomlinson tells us that, “On the 15th of December Major Abbott and Dr. —————” were found by the United States officer and his men holding “Citizens’ Court.” “The court,” the writer continues, “was held in a log building, which had been converted into a tolerable Fort, being furnished with loop-holes, etc.” The Federal officer notified the insurgents that he held papers for their arrest, and demanded their surrender. The insurgents refused his demand, upon which he advanced on the building. “As they came up to the fort, the squatters opened upon them a steady and destructive fire,” in which the marshal was wounded and some of his men killed. Here is the direct result of Northern guns, of Northern encouragement, and the outcome of the “popular Northern subscriptions,” again in contact with Federal authority.⁵¹⁹

The place where Abbott and his men held their court was known as “Fort Bayne.” He had succeeded in driving off the officers of the law; he had defied the authority of the United States. What was the result after he had time for deliberation? Did the illegal court disband? By no means! The notorious Montgomery organized, drilled, and equipped a new company of Northern men for the purpose of defending Abbott against further molestation from any opposing source whatever. For months again he held the country in terror. A Territorial and lawful judge was arrested by the insurgents as he was quietly passing along the highway.⁵²⁰ Not content with resisting and maltreating the Territorial and Federal officers, Montgomery and his men, armed with Sharp’s rifles, visited the homes of Southern men and ordered them to leave the Territory.⁵²¹ If this order was not immediately obeyed, Tomlinson says their “homes” were searched, and “arms, ammunition, and horses, etc., taken from them.” What the “etc.” was the writer leaves us

⁵¹⁹Tomlinson’s *Kansas* in 1858, 179, 181.

⁵²⁰*Ib.*, 159.

⁵²¹*Ib.*, 175.

to guess. After the frontiersman had had his "arms, ammunition and horses" stolen or taken by illegal brute force, what could the poor fellow have had left? Perhaps the strength to carry his wife and children out of the woods or off of the prairie on his back!

Without taking the time to go into details concerning Montgomery's movements, I stop to recount but one or two of his "feats." On one occasion he and eight men were out on a reconnoitering expedition. They were discovered near a United States fort. Capt. Anderson, of the United States army, in command of a body of regular soldiers, went after these insurgents. Montgomery and his band took cover; as soon as the soldiers were in range of his Sharp's rifles, he opened fire. Our Northern writer gives us the result: "The Free-State loss was none, and but one man was wounded, and he only slightly. . . . The loss to the troops was considerable."⁵²² "The blood oozed from the wounded men lying in all positions upon the velvety sward." Capt. Anderson, apparently dying, lay under his fallen horse. The rebels wanted the guns of the fallen soldiers, "but their leader would not allow it. It was Uncle Sam's property, he said, . . . and it was not right to steal from the old gentleman, . . . but when the old gentleman got out of his place it was perfectly right to *learn* him his place."⁵²³ A wonderful ethical faculty, this,—the ability to distinguish the sin of theft while reveling in assassination! Mr. Tomlinson continues; "By that fight—the fight between the settlers and the federal soldiery in Kansas—it was satisfactorily demonstrated that a Sharp's rifle ball, carefully directed, would have the same effect upon a dragoon as upon a common man, and the soldiers of Fort Scott, by their after-conduct, gave evidence that the *demonstration* was not wholly lost upon them."⁵²⁴

It would be superfluous again to call attention to the responsibility of the North for this blood of Union soldiers. "Rich New Englanders," those who contributed to "popular subscriptions," those who "like a flaming meteor" had helped to arouse the North,—had armed in time of peace and months before any hostile demonstration by their political opponents, Abbott, Lane, Robinson, and the many hundreds of others; Abbott and his associates had called

⁵²²Ib., 199.

⁵²³Ib., 200.

⁵²⁴Ib., 201.

out, armed, encouraged, and incited Montgomery; from his hiding place Montgomery murdered United States soldiers while *they* were in the discharge of their official duty. But the connection between cause and effect did not stop at this. "From all parts of the Territory," says Tomlinson, "congratulations poured in on Montgomery."⁵²⁵ "*The Lawrence Republican* [established by Northern capital], in an able editorial, expressed its approbation in unmistakable language, and among the true friends of freedom all over the Territory, wherever the affair was understood; there was but one general sentiment of approbation."⁵²⁶ A would-be bard composed the "Song of Montgomery's Men," one stanza of which will be sufficient to show the sense in which his deeds of violence were received:

" Every man of Montgomery's band
Shall live on history's page,
And Montgomery's name have deathless fame
Upon the Little Osage."

A public dinner was given to Montgomery in Osawatomie, "where he and his band were applauded for their deeds in speeches made by Chas. A. Foster and others."⁵²⁷

Encouraged, elated, and fully sustained by the abolition or insurgent element, Montgomery became more aggressive. He went so far as to attack Fort Scott.⁵²⁸ In the darkness, for the attack was under cover of night, the "sentinels were quietly secured," and the fort and the hotel were set on fire. The soldiers responded quickly to the alarm. Tomlinson says, "But scarcely had they collected, before a fire was opened upon them by the men of Montgomery from a ravine close at hand to which they had retreated. . . . There is something exciting in the rapid discharge of Sharp's rifles. . . . The firing was kept up by the little band of Montgomery until the fire [which had failed to spread] . . . had died away, enveloping the town in pitchy darkness, when the little party of Free-State men slowly and in orderly manner left the place."⁵²⁹ Again here were those deadly Northern guns, contributed by "Rich New England-

⁵²⁵Ib., 201.

⁵²⁶Ib., 202.

⁵²⁷Kan. Historical Cols., Vol. V., 532.

⁵²⁸Ib.

⁵²⁹Ib., 216.

ers," or bought "by popular subscription," having been "shipped by the carload," carrying out Northern resolutions, "at all hazards," in a truly exciting, loyal (!) manner. But in this attack on the public property and soldiery of the United States, Federal troops alone did not suffer. Tomlinson further says, "The shrieks of the women and the children could be heard above the sharp reports of the firearms."⁵⁸⁰ This witness who thus deposes to us through his history published shortly after the events which he describes, was a Northern man, an abolitionist, an anti-slavery man, an insurrectionist himself, and *an eye witness*. His story was published before the North had time or opportunity to fabricate a version of the "Kansas war." Mr. L. W. Spring wrote his history of Kansas in 1885. He is taken as authority by Northern writers. He is given as the authority for many statements made by such eminent historians as Channing and Rhodes. He is in sympathy with the abolition movement; and so far as one can judge from his work, he is in full sympathy with the free-State movement in his own State of Kansas. There is nothing in his writings which shows that the South had the slightest connection with the individual wrongs done by the Southern or pro-slavery men in Kansas; but, on the other hand, he substantially corroborates the statements of Tomlinson. So from the most reliable historical sources, there can be no other conclusion than that the insurrection was against both Territorial and Federal authority. To quote Mr. Spring again: "Free-State men in the Southwest, comparatively isolated, having little communication with Lawrence, and consequently almost wholly without check, developed a successful if not very praiseworthy system of retaliation. Confederated at first for defence against pro-slavery outrages, but ultimately falling more or less completely into the vocation of robbers and assassins they have received the name—whatever its origin may be—of jayhawkers."⁵⁸¹ The section of country of which he here speaks was that in which Montgomery was operating. They were not so isolated from nor had so little communication with Lawrence as this seems to indicate. Northern residents of Lawrence sustained or encouraged in a very large measure to the very last these murderers. Just over on page 242, Mr. Spring, after stat-

⁵⁸⁰Ib., 217.

⁵⁸¹History Kans., 240.

ing that a delegation of these desperadoes had been sent to Lawrence for help in December, 1857, continues, "However, a small company from the vicinity of Lawrence, led by Capt. [Major] J. B. Abbott, returned with the messengers for the purpose of investigating affairs and of lending such assistance to the free-State men that might be possible or advisable." We have already seen "Captain-Major" Abbott operating vigorously in this same locality in the following year. Mr. Spring informs us that after Abbott and his Lawrence friends arrived at their destination, they "arrested" a citizen of Missouri and "tried" him before one of those illegal, irregular, seditious courts of which Mr. Tomlinson tells us. Of this particular session Mr. Spring says, "The officers of which were mostly drawn from the Lawrence party." Evidently, then, Lawrence, the center of the disturbance, did her share to prolong the struggle. Abbott was the very man who had packed his carbines on a Sunday in the North some years before; he continued to the last to be the "fully accredited" agent of the rebellion. This so-called court, as we saw, continued its usurpation until close onto the Civil War; finally it was suppressed by the Federal authority. Mr. Spring details some of the attempts of the Federal authorities to disband this organization. After considerable ineffectual hunting, the Federal officer discovered the "fort" and the "court." The building was surrounded, and the Federal officer said to the insurgents, "Gentlemen, you will understand that you are dealing with the United States, and not with border ruffians." He then ordered a full surrender, and after a wait of thirty minutes, charged the "judicial" gentlemen. Mr. Spring says, "A dozen Sharp's rifles responded to the charge," and the Federal officers were driven off. The Federal force was increased; but, so Spring says, "Reinforcements hurried down from Lawrence" to the aid of the rebels.⁵²² The southeast was not so isolated after all! Communication with Lawrence was so complete that the lawful, rightful officers were forced to retire, and sedition went unpunished.

Events were now hastening; the Presidential election trembled in the balance, and a nation stood in awe of the result. Lincoln became the President, not because a majority of the sovereign voters of the United States chose him, but because his next highest op-

⁵²² *Ib.*, 244.

ponent had lost the requisite electoral votes; Southern members began to withdraw from Congress, after which, scarred with the seal of the Northern political policy, Kansas became a State. She entered the Union stained with blood,—blood shed certainly not to make a home for the free negro or to secure freedom to him or bring him from under the yoke. The Northern party had denied the negro or his mulatto cousin a home or a resting place in Kansas. This, in various unmistakable ways, was declared to be their position, especially in the government resting upon the Topeka constitution, which forbade free negroes or mulattoes to come into or reside in the State. This provision was sanctioned, it will be remembered, by almost an unanimous vote of the Northern element.⁵³³ But if not in the interests of enslaved humanity, where did the North find a motive for such gigantic movements, such determined and aggressive onslaughts upon the Constitutional rights of the South? Let us go once again to the fountain source of that movement which not alone itself spurned all legal ethics, but which fanned into a consuming flame less aggressive agencies—back to the plans set out and the appeals made for their support by the organizing committee of the original emigrant incubator, to the report drawn by E. E. Hale, D. D., and others interested with him, and published by them in 1854. As a motive for capturing the new territories they declared: "Whether the new line of states shall be free states, is a question deeply interesting to those who are to provide the manufactories for their consumption. Especially will it prove an advantage to Massachusetts if she creates the new states by her foresight—supply the first necessities to its inhabitants, and open in the outset communications between their homes and her ports and factories."⁵³⁴

There is the motive, the prime object—there is the secret for manufacturing New England's plans of bold conquest. That section, through rich and influential men, declares she means to check the forming of new slave States, to put a cordon of free States from Minnesota to the Gulf, and after that to invade Missouri and Virginia. The world looked on and saw upon the banner of the Northern crusade: "A Free-State"; but as the conflict deepened leaders

⁵³³Kan. Hist. Cois., Vol. V., 339.

⁵³⁴E. E. Hale, *Kansas and Nebraska* (1854), 226.

then and too many of their chroniclers since resorted to equivocation and subterfuge to blind that world to the utter want of philanthropic consideration for either the slave or free negro—and of the latter there were then in the South hundreds of thousands. The Northern masses were blinded to the fact that their manufacturing or importing leaders wanted free States with white labor, because slave States bought little; so simple was slave life and so crude were the instruments and machinery used by servile labor, that manufacturing New England found the Southern States commercially unprofitable neighbors. Hence, many of her leaders augmented the perverted and mad mania already abroad in her borders to provide new and profitable markets, and to open “communications between their homes and her ports and factories.”

So the “North, in the end,” using the language of Mr. Sparks, a non-Southerner writer, “won, as she always did, through geographical and commercial advantages. Her urban population gave her great advantage in securing bodies of emigrants, her superior resources furnished the means to send them, and her better facilities for transportation made the going easier and more attractive. And all her people, although acting from interested motives of gaining territory, were wrought up almost to a frenzy by the inspiration of a ‘cause,’ whilst the Southern people were contending for their property and their rights.”²³⁸

²³⁸The Expansion of the Am. People, 362.

XI.

DEPREDACTIONS AFFECTING THE EXISTING SOUTHERN STATES.

The Kansas troubles had found their opportunity in the scramble for territory. While they were by no means local in their effect, yet, long before this territorial war, other depredations of wider sweep had been preying upon the South. These were of great power in shaping the history of the pre-bellum period. Under the second count in the indictment against the North which I have herein formulated on behalf of the South, I placed the illegal, unconstitutional, UNWARRANTED, interference with the property interests of the existing Southern States. I stated that these led, not alone to financial losses, but to imminent danger to the lives, homes, and female security of the South. The most potent agency in this direction is what was commonly called the "Underground Railroad,"—with all its incidental and coöperative agencies. Most of the literature descriptive of this institution is either fragmentary or very local; and I am of the decided opinion that the massive volume by Prof. W. H. Siebert, of the Ohio State University, is in the main fair; reliable, and certainly the only comprehensive work to which my attention has been called. Dr. A. B. Hart, professor of history in Harvard University, in his introduction to this work, makes an error common to Northern writers. He says, "... abolitionists felt a moral responsibility even though property-owners suffered. . . . In aiding fugitive slaves the abolitionist was . . . enjoying the most romantic and exciting amusement open to men who had high moral standards." He states this position as confidently as though there were no questions as to the correctness of these "high moral standards." Anarchists profess to believe in the moral justification of their murderous assaults upon governmental functionaries. Yet the consensus of sane mankind brands them as murderers of the very lowest moral standards. They are universally admitted to be either grossly immoral or hopelessly insane.

A man who does what is productive of infinitely greater harm than the evil he seeks to remedy, when there was within his power such information as would have led him to see the result; or, having the information before the mind, acts in utter disregard of it, is either a grossly immoral man or, one of dangerously abnormal mental balance. The South submits to the candid and unprejudiced judgment of the learned world that the acts of the abolitionists made the conditions of slavery unavoidably harder; and that their "romantic and exciting amusement" procrastinated the emancipation of the Southern slaves; and, therefore, that the abolitionists were not "men who had high moral standards,"—since all the facilities for the exercise of enlightened moral judgment were within their power.

The liquor traffic yearly sends to their graves a great army of drunkards; in thousands of desolate homes are heartbroken wives and mothers to whose tattered garments cling puny children that shall never know the common comforts of life; our criminal courts overflow with the product of the saloon; directly and indirectly we spend enormous millions in making a sickly effort to right the evils of the whiskey dispensers. The stench of the liquor traffic is so powerful that it has become a narcotic to the American people. Dens of prostitution where once innocent women go down to deepest perdition, and dives of vice where innocent boys are begrimed, with sins of which their mothers have never dreamed, have become the inevitable satellites of the saloon. Would moralists be justified in the systematic and persistent destruction of the property used in such places; or in pursuing an unlawful course in their effort to rid the community of the evil? To do so would lead to anarchy or war,—would be the subversion of law and government. In its application to slavery the illustration is apt. The question is, Would such a course stop the evil, materially mitigate it, or produce conditions of less evil? Just such a course as was pursued by the abolitionists did not stop or mitigate slavery; therefore, unjustifiable and inexcusable,—the product of unreasoning fanaticism.

When one examines the great mass of facts, now being admitted for practically the first time by Northern historians—especially when it is realized that the half has not been told, mainly owing to the loss of evidence—there is an inclination to believe that many

of the great efforts to run so many slaves out of the South, was a scheme to try to force the South to buy the slaves which Northern importers were anxious to sell. From all parts of the South emissaries were constantly inducing the slaves to go at the most inopportune time for the master. The crop comes on, the cotton is white for the harvest, the rice is waiting for garnering, the corn is brown in the husk,—the master suddenly finds his best field help gone—gone northward by way of the “underground.” From some source the vacancy must be supplied or much of the crop will be lost; and a material loss of the crop means suffering, in many cases; in others, hard privations, for wife and children. Except inferentially, history does not show any contract between the “conductors on the underground system,” their various “passenger agents” that had been sent throughout the South, and the Northern “importer.” But if men would falsify the census of the United States, as Seibert shows was twice done, to cover up the operations of the “railroad system,” would the thief who stole the negro hesitate to coöperate with the pirate who enslaved him?

Perhaps no feature of slave legislation has caused more comment, or been used to justify more illegalities, than the various fugitive slave laws. In this, just as when writing of slave legislation generally, writers are too apt to forget that New England furnishes us more than one of the earliest fugitive slave laws. Of course, the fact that New England, or any part of the North did a thing, was neither its justification nor condemnation so far as the same action concerned the South. But the lesson to be gathered in going to the North for her treatment of slaves, or her position toward the negro, is that whatever was in large measure common to the two sections must have had some justification under the existing conditions; or else that the entire American people were upon the same moral plane from which, it certainly cannot be denied, they could not be removed within one or two generations. Great moral reforms are not wrought in a day, or a generation, and scarce in the second or third, as I have sought to show was true of the position touching the slavery of other countries, which I have discussed in another division. We of to-day are not so far removed from the days of our Revolutionary fathers as we are liable to think. I represent the third generation from the American Revolution. My paternal

grandfather came upon the scene in those stormy days; he was a young man at the formation of the Constitution; at the time of the formulation of the Virginia and Kentucky Resolutions he was in official position. My father had but reached the vigor of his young manhood when the crisis in the slavery conflict called him to the stern duties of the soldier. Hence, the slave legislation of the North from its earliest times is pertinent to show that the Southern people were not essentially different in their slavery position from that of their northern neighbors; and that the slave laws of the South were not such as were unworthy the moral conditions of their day.

In 1643 a Confederation existed between Plymouth, Massachusetts, Connecticut, and New Haven, called the New England Confederation. In that same year a clause was incorporated in the Articles of Confederation which is as follows: "If any servant run away from his master into any other of these confederated Jurisdiccions, That in such cases upon the Certyficat of one Magistrate in the Jurisdiccon out of which the said servant fled, or upon other due proofs, the said servant shall be delivered either to his master or any other that pursues and brings such Certyficat or proof." Many other provisions were made between the several colonies for the return of runaway negroes. These laws continued in force until the conditions of climate and industry made the selling-off of Northern slaves desirable,—conditions which Burgess⁵⁸⁶ and the many others frankly admit as the causes of Northern emancipation. By no means were the provisions concerning the return of escaped slaves confined to the colonial period. Hosmer, speaking of the slavery conditions in the Northern states, says, "The newspapers teem with the advertisements of slaves to sell, and offers of reward for the recovery of fugitives."⁵⁸⁷ Todd tells us that the New York "newspapers did a thriving business in publishing advertisements of runaway slaves," who were endeavoring to escape their Northern masters.⁵⁸⁸

In this connection it is interesting to note the objections to the slave laws of more recent years, those laws which had the slaves of the South as their object. Of these later and national laws Prof.

⁵⁸⁶The Middle Period, 42.

⁵⁸⁷A Short History Mississippi Valley, 162.

⁵⁸⁸Chas. B. Todd, The Story of the City of New York, 245.

Channing says, "The right to a jury trial was denied to a person designated as a fugitive slave"; "the affidavit of the person claiming the negro was sufficient evidence of ownership."⁵⁸⁹ These later laws passed by the United States Congress were but Northern slave laws re-enacted. No jury trial was allowed their runaway slaves; such slaves could be reclaimed on a mere certificate; or, in the absence of such certificate, "due proof" might be made, which neither gave nor was meant to give trial by jury. In fact, throughout the history of the North, no section enacted more rigorous slave laws, or more "Black Laws" of varying degrees of rigor⁵⁹⁰ than did her people. The very initial of the national legislation touching runaway slaves was a Northern measure, and supported by Northern Congressman at the solicitation of the Northern people. This first legislation regulating the return of fugitives from labor was supported by almost an unanimous Congress; out of the entire number in Congress, but seven voted against the law, and part of these were from the South. This law, enacted in 1793, not essentially different from the revised form enacted in 1850, did not meet the desired ends because part of its execution was improperly consigned.⁵⁹¹ It shows that so long as the financial interests of the North were involved, neither as colonies nor as States did she hesitate to support a slave law or a slave provision. But just as soon as no financial gain was in the North's favor by a return of the fugitive slaves from the South, then began the ever increasing efforts to encourage the negro to flee from his master. So that "by 1850 the Northern states were traversed by numerous lines of Underground Railroad, and the South was declaiming its losses of slave property to be enormous."⁵⁹²

Again, in speaking of the later Congressional fugitive slave law, Prof. Channing says, "There seems to have been no adequate reason" for it. When the North owned slaves, some of whom fled *unassisted and unencouraged* by any such powerful movement as the "underground" system, their flight was thought an "adequate reason" for a fugitive slave law. It seems very strange, at least to some of us who know slavery only as a matter of history, that *ade-*

⁵⁸⁹Students' History U. S., 463.

⁵⁹⁰Smith, Liberty and Free Soil Parties, 7.

⁵⁹¹Morton v. Hunter, 1 Wheaton, 330.

⁵⁹²Siebert, The Underground Railroad, 22.

quate reasons were always *indigenous* to the North, and absolutely incapable of acclimation in the South. However "inadequate" the reason for the fugitive slave laws passed at any time by Congress, they found their NECESSITY in Northern agitation and the work of slave emissaries. It is a practical certainty that if the white people of the North had not deliberately entered a systematic robbery of slaveholders, the laws of which the North complained so bitterly, such as that of 1850, would not only never have seen a statute book, but would never have been needed. Surely if Northern slave-owners needed protection when there was no widespread band of illegal slave-kidnappers and slave-smugglers, the South did find an "adequate reason" when, owing to the existence of such "tender-hearted" law violators, the per cent. of losses had vastly grown—finally involving millions of dollars. As a substitute for the fugitive slave law, Prof. Channing suggests "Some scheme of insurance against slave escapes would have fully protected every Southern slave-owner at trifling cost."⁴⁴⁸ *Mirabile dictu!* but some of us can never understand why the North did not embark upon such "a scheme." The loser cannot undertake to reimburse himself against his own loss; it would have been a most preposterous proposition for the South to have attempted "to insure" herself. The North was doing the "charity act," WHY didn't she reimburse the South? WHY? To have done so would not have accomplished the aim of her designing politicians; it would not have checked Southern political power; nor would it have added a single United States Senator to the Northern roster. Are these the reasons? But—would not non-interference have been more simply? As the Constitution provided, to have allowed the South to have managed their own slave matters, would not have involved the "insurer" in such questions as determining the loss and its cause, its value, and the one hundred other questions no less essential and equally impossible of solution. Again Prof. Channing has remarked: "Every day that slavery existed, the South grew weaker morally, materially, and politically."⁴⁴⁴ If this be true, Southern slavery was shortly to see its final effacement. Why on earth did not the North pursue the humane course, and simply let the South die this natural death?

⁴⁴⁸Students' History U. S., 463.

⁴⁴⁴Ib., 462.

So generous to kill one's brother and then turn his family out penniless simply to prevent him passing off of inherent and mortal infirmities!

Notwithstanding the North, excepting the insignificant number of five votes, initiated the national slave laws; and so long as slavery existed in any of those States they had local fugitive slave laws no less rigorous than the law they enacted for the nation, yet some excuse must be found for the opposition to the several enactments mainly operative in behalf of the Southern master. Prof. Siebert justifies them thus: "A government, whose first national manifesto contained the exalted principles enshrined in the Declaration of Independence, stooping to the task of slave catching, violated all the ideas of national dignity, decency, and consistency. Many persons, indeed, justified their opposition to the law in the familiar words: 'We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain inalienable rights, that among these are life, liberty, and the pursuit of happiness.'" Such a position showed either a warped judgment or ignorance of the facts at home, where all moral movements should first operate. These moralists should first have turned their batteries against those of their own section who had deprived more negroes of "life, liberty, and the pursuit of happiness" than the whole number of slaves held at any one time in the South. When pushed to the point, no one reasonably sane among them would have contended that "all men are equal." The vastly greater number of those who were engaged in enticing or aiding slaves to escape the South would not have allowed the negroes whom they assisted to have approached a sister or daughter on the subject of matrimony—to the girl herself it would have been a most serious shock. Why? Simply because all the North then stood and now stands on the high plane of natural and social inequality. No section of this country has stood more firmly on the negative of the proposition that all men are their "created" equals than have the people of the North,—the only thing of which the South has had to complain has been the application of the principle.

Prof. Siebert further says that those among them "whose religious convictions admitted of no compromise," stood upon the Scriptural injunction: "Not to deliver unto his master the servant

that had escaped."⁵⁴⁵ But the South could not reconcile these "religious convictions" with the WANT of Bible sanction for *helping* and *inducing* the servant *to run away and escape*. The South felt that if there were any conflict at all from a Bible standpoint, the New Testament certainly was the safer guide; and its commands are repeated: "Servants, be obedient unto them that according to the flesh are your masters."⁵⁴⁶ "Let as many servants as are under the yoke count their own masters worthy of all honor."⁵⁴⁷ "EXHORT servants to be in subjection to their own masters, and to be well pleasing to them in all things; not gainsaying; not purloining, but showing all good fidelity."⁵⁴⁸ Here are positive injunctions which the North insisted on disobeying. The last one they entirely reversed, and rather than exhort the servant *to obey*—and the Greek here means a bond servant, just such as was the Southern slave—emissaries and literature filled the South EXHORTING him NOT to obey. Incendiary literature filled his hands, and no effort was spared to make him dangerous to his master. Suppose each side had equal Scripture for its justification; and suppose the North had all the argument from natural justice to bear out the claim that they did not want to aid in re-capturing runaways. Granting all this, where lies the indictment against the North? It is by no means difficult to find. Section 4 of the law of 1793, which, and before 1850, various courts, including such States as Massachusetts, Ohio, New York, and Pennsylvania, held to be unquestionably Constitutional, reads: "And be it further enacted, That any person who shall knowingly and willingly obstruct or hinder such claimant, his agent or attorney, in so seizing or arresting such fugitive from labor, or shall rescue such fugitive from such claimant, his agent, or attorney, when so arrested pursuant to the authority herein given or declared, or shall harbor or conceal such person after notice that he or she was a fugitive from labor as aforesaid, shall for either of said offences, forfeit and pay the sum of five hundred dollars." Here were two classes of prohibitions, the violation of either of which constituted an offence. The injunction against knowingly harboring or concealing the fugitive is both plain and emphatic.

⁵⁴⁵The Underground Railroad, 22; Deut. xxiii., 15, 16.

⁵⁴⁶Eph. vi., 5.

⁵⁴⁷1 Tim. vi., 1.

⁵⁴⁸2 Titus ii., 9, 10.

So far as this provision was concerned, there was neither defect nor difficulty. To violate it constituted an offence. A systematic and concerted offence against the laws of a country by any one or number of its citizens is either criminal in fact, or revolutionary or rebellious. No man or faction of men with "high moral standards" can commit crime in their application; if an act be a crime the "high moral standard" under which it was done is shameful hypocrisy. But those who violated this law insist that they were not criminals; hence, perforce of logic, they were incipient rebels. The South argues that since these rebellious deeds produced greater evils than those sought to be corrected, the perpetrators were likewise fanatics. Now, let me briefly inquire to what extent these depredations were carried, who were responsible, and when they began.

From the early part of the nineteenth century on to 1860, the number of negroes who made frequent trips from Canada, and who had previously escaped the South, steadily increased. James Redpath, in his publication in 1860 says, "In the Canadian provinces there are thousands of fugitive slaves. They are the picked men of the Southern States. . . Many of them are intelligent and rich; and all of them are deadly enemies of the South. Five hundred of them, at least, annually visit the Slave States, passing from Florida to Harper's Ferry. . . . They have carried the Underground Railroad and the Underground Telegraph into nearly every Southern State. Here, obviously, is a power of great importance for a war of liberation."⁵⁴⁹ Other writers confirm Redpath's estimate, and leave no doubt that by 1860 this large number had really grown much larger than he estimated it to be. This numerous class was harbored, fed, and furnished money by the North.⁵⁵⁰ "The work done by these fugitives was supplemented by the cautious dissemination of news by the white persons who went into the South to abduct slaves or to encourage them to escape, or while engaged there in legitimate occupations, use their opportunities to pass the helpful word or to afford more substantial aid. The Rev. Charles Fairbank, the Rev. Charles T. Torrey, and Dr. Alexander M. Ross

⁵⁴⁹Public Life of John Brown, 229.

⁵⁵⁰Wilson, Rise and Fall of the Slave Power, Vol. II., c2.

may be cited as notable examples of this class."⁵⁵¹ "Notwithstanding the distance, the number of escapes from the interior as well as from the border slave states seems to have been sufficient to arouse the suspicion in the minds of the Southerners that a secret organization of abolitionists had agents in the South at work running off slaves. This suspicion was brought to light during the trial of Richard Dillingham in Tennessee in 1849."⁵⁵² On the unmistakable discovery of the organized theft of her slave property, the South began to ask for protection at the hands of the Federal government. As a result the fugitive slave law of 1850 was enacted. Prof. Siebert is certainly correct when he says, "The fugitive slave law of 1850 was the embodiment of Clay's mighty effort to stop this evil."⁵⁵³ There can be no doubt whatever of the fact that the depredations of the North forced this law upon the country. Instead of *aiding*, if the North had *discouraged* the illegal invasions of the South, the slave law of 1850 would never have been made, and the country would have been spared a great upheaval. Abolitionists made the necessity for the protection and then blamed the South for her unwillingness to be robbed.

By no means are we to understand that the efforts to steal slaves or to induce them to run away were spasmodic or far between. Nor was the effort confined to one locality. Regular stations were early established from Boston westward to Iowa and Kansas. Says Siebert, "We may summarize our findings in regard to the expansion of the underground railroad, then, by saying that it had grown into a widespread 'institution' before the year 1840, and in several states it had existed in previous decades."⁵⁵⁴ Systematic organization for the aid and protection of fugitive slaves took place among the Quakers in Pennsylvania before 1786⁵⁵⁵ and from that time, and continuously, rapidly spread over the North. In Connecticut the forcible rescue of slaves claimed by Southern men existed through organized effort from 1798⁵⁵⁶ down to the Civil War.

The secrecy which guarded every move and which protected the

⁵⁵¹Siebert, *The Underground Railroad*, 28.

⁵⁵²*Ib.*, 30.

⁵⁵³*Ann. Report Am. Hist. Asso., House Docs., Vol. LXII., 401.*

⁵⁵⁴*The Underground Railroad*, 43.

⁵⁵⁵*Ann. Rep. Am. Hist. Asso., 1895, House Docs., Vol. LXII., 396.*

⁵⁵⁶Howe, *History Ohio*, Cent. Ed., Vol. III., 328.

"institution" against discovery, is unsurpassed for completeness; and it was owing to this that the facts for many years could not be shown. "Much of the communication relative to fugitive slaves was had in guarded language. Special signals, whispered conversations, passwords, messages couched in figurative phrases, were the common modes of conveying information. . . . Different neighborhoods had their peculiar combinations of knocks or raps to be made upon the door or window of a station when fugitives were awaiting admission."⁵⁵⁷

While it is now impossible to know the approximate number who availed themselves of the opportunity to go North, yet enough can be seen to prove that the number was by no means insignificant. "It was a common thing for a station to entertain a company of five or six," sometimes twenty-eight or thirty. At times a single home entertained as many as sixty in a single month. In numerous cases the negroes thus escaping were treated as though they had been white people, eating, for instance, at the table with the white family.⁵⁵⁸ The white women of the North were not less zealous than their men. These women furnished food, clothing, "and in many places conducted sewing circles" for the benefit of the escaping negroes. They assisted in collecting money for the purposes of hiring conveyances, and in many cases they provided closed carriages. Conveyances of all kinds, many of them of the most deceptive appearances; steamboat and railroad transportation,—in fact, practically every conceivable method of transportation, "various, ingenious, and deceptive devices," Black says,⁵⁵⁹ were used. Powerful railroad systems, such as the Chicago, Burlington and Quincy, the Illinois Central, the Cleveland and Pittsburg Railroad,⁵⁶⁰ voluntarily and freely lent their facilities. Before 1817 five families in Ohio had forwarded to Canada more than one thousand fugitives.⁵⁶¹ Now and then a single individual boasts of having forwarded as many as one thousand, and some one thousand five hundred. Thos. Garrett, of Wilmington, Del., aided two thou-

⁵⁵⁷Siebert, *The Underground Railroad*, 56.

⁵⁵⁸*Ib.*, 76-7.

⁵⁵⁹*The Story of Ohio*, 216.

⁵⁶⁰*Liberation of Fugitive Slaves*, Ann. Rep. Am. Hist. Asso., 1895, Ho. Docs., Vol. LXII., 396.

⁵⁶¹Black, *The Story of Ohio*, 217.

sand seven hundred runaways in escaping, so reliable authority tell us. Northern members of Congress now and then harbored runaway slaves, and also contributed to the expense fund of the underground.⁵⁰² The distinguished journalists, Thurlow Weed, Sidney Howard Gay, of the New York *Tribune*, and other Northern newspaper men, engaged in the work of helping negroes escape from the Southern owners.⁵⁰³

Such facts go to show the great extent to which this practice was carried, and that all classes lent it aid and support. They show that the charges made by the South that the North was refusing to respect the Constitution or to obey the laws of Congress, were correct; they prove her claims that the system was productive of enormous losses, and show that her claims of injuries were not overstated. Most serious of all, these losses, inconveniences, and threatened dangers all helped to embitter the South, and to awaken a spirit of opposition to emancipation. That such was the effect is nothing more than the result of the human nature just as common to one section of this country as to another. If the North herself had been free from wrongs against the negro, and had pursued a course of fairness, moderation, and brotherly helpfulness, I am sure that Lincoln would never have seen the need of using emancipation "as a war measure."

The map showing the different routes of the underground system which accompanies Prof. Siebert's book, is very interesting; and, to those of us who know the underground railroad only as history or tradition, it is astonishing. The more or less zigzag red lines leading northward, beginning at the north boundary of Maryland and thence westward with the Ohio river, cover the country in hundreds of longer or shorter lines from the New England States to Topeka, Kansas. They resemble a modern and complex railroad system to which various other branches add their accommodations. Of this map Prof. Hart, in his Introduction, remarks, "The facts presented in the brief compass of the map would have been of immense value also to the leaders of the Southern Confederacy in 1861, as a confirmation of their argument that the North would

⁵⁰²Siebert, *The Underground Railroad*, 105-6.

⁵⁰³*Ib.*, 108.

not perform its constitutional duty of returning the fugitives."⁵⁶⁴

As I have remarked, and as Professor Siebert points out, the loss to the South can never be definitely known. It is certain that hundreds of thousands escaped, and that millions of dollars were lost by Southerners. Northern men falsified the census in the two important years of 1850 and 1860, to cover up the facts touching these depredations. These two acts are among the strongest possible admissions of guilt. They either changed or neglected the facts of these two censuses and made them to show a decrease in escapes and abductions of slaves from the South, whereas the truth was that they had been on the increase. Prof. Siebert says, "The concurrence of evidence from sources other than census reports, and the agreement therewith of part of the evidence gathered from these reports themselves, constrain one to say that those who compiled the statistics on fugitive slaves did not secure the facts in full; and the complaints of large losses sustained by slave-owners through the befriending of fugitive slaves by Northern people, frequently made by Southern representatives in Congress and by the South generally, were not without sufficient foundation."⁵⁶⁵ And again he says, "The censuses are not only opposed to the evidence, they are on their face inadequate."⁵⁶⁶

I may well conclude what is here said on this subject in Prof. Siebert's words: "Can it be thought strange that the disappearance week by week and month by month of valuable slaves over the unknown routes of the underground system should have produced wrath, suspicion, and hostility in the minds of people who could justly claim to have a constitutional guarantee, the laws of Congress, the decisions of the highest courts on their side?"⁵⁶⁷

With this brief outline of the working of the underground road, I treat it no further. In the next chapter of this work, we shall see somewhat more fully the methods of exciting the negroes themselves; and also something of the efforts of the emissaries to make the slaves a source of danger and a constant dread to the white people.

⁵⁶⁴The Underground Railroad, Intro., XI.

⁵⁶⁵Ib., 343.

⁵⁶⁶Ib., 342; see also Ann. Rept. Am. Hist. Asso., 1895, Ho. Docs., Vol. LXII., 399.

⁵⁶⁷The Underground Railroad, 342.

XII.

EXACERBATION AND PROSCRIPTION.

Hand in hand with these "underground" depredations against what, we have seen, the Constitution, Congress, and representative Northerners had recognized as *valuable*, legal property interests, went the dangerous seditious literature from the Northern press. This literature began no less early than the underground road, and, as I shall show in the concluding part of what I have to say, increased in bitterness, in volume, and in boldness, as the war period approached. All these things combined to drive the Southern people, in the first place, to abandon efforts for emancipation; in the second, to pass restrictive laws and to enact anti-free negro measures.

March 6, 1818, United States Senator Smith, of South Carolina, gives important and undisputed testimony as to the early injurious nature of abolition prints and publications. Just how long before this early date this Northern faction had resorted to this method, we do not certainly know; but it had by that time become notorious, and its beginning must have been near in time to the slave-stealing "underground" movement which had quietly and effectively become widespread even before 1818. Said Senator Smith, "But, there is another perpetual source of misrepresentation, which serves to place it [slavery] in an odious light to strangers; it is the number of catch-penny prints and pamphlets that are published by persons who know no more about the condition of the slaves than the man in the moon. Go to a book store, and you meet prints hung up in some conspicuous place, in large capital letters, 'Portraiture of Domestic Slavery,' published in Philadelphia; or, 'The Horrors of Slavery,' published in Cambridge, and sold in Boston. These pamphlets contain all the extraordinary cases collected on the high seas, in the West Indies, or the United States, together with such inflammatory speeches of travelers, who have no other means of giving to their writings interest, than by dealing in the marvelous; or of fanatic preachers, . . . calculated to inflame without being able to instruct . . ."

The speaker then gives us a sample of the doctrine to be found in this class of publications. While abolition petitions were being imposed upon Congress, the Senator says that "some unknown hand laid on the desk of each Senator a pamphlet entitled 'The Horrors of Slavery, in two parts, by John Kenrick; sold in Boston, price twenty cents.' " Among other things advocated by the writer of this pamphlet was the doctrine that the Southern slaves be emancipated and colonized in Louisiana; and then he appealed to New England commercialism by declaring that this colony would afford a fine market for Northern manufactures!⁸⁰⁰

Now, watch the growth of this movement as we get its history from the highest sources in *both* sections of the Union. Note that its paramount importance in interpreting the *causes* of secession, is that it was no mere agitation, or process of education, such as all parties or sects may properly pursue, but it was born of the spirit of the bloody French Revolution: a remorseless disregard for *law* was its pivotal point, and *mob violence* became its increasing results. Napoleon Bonaparte gibbeted and bayoneted the mob spirit of France; Civil War satiated and quieted that phase of abolition which, as the history of its progress and results prove, became a no less dangerous mania.

Feb., 1836, on the floor of the House of Representatives, J. R. Ingersoll, of Pennsylvania, admitted the existence of an incendiary Northern faction "hostile to our Southern brethren," who, aside from their "threats of attack on life," threatened property value the character of which was communicated by the Constitution, which made "it a duty to guard it from violation."⁸⁰⁰ The burden of his position was that this movement against the security of the South did not have the support of the Northern majority, which fact alone brought neither relief nor consolation to the besieged section.

March 8, 1836, Senator Thomas Ewing, of Ohio, in an address before the Senate, said, "I am opposed to slavery, and think it a great evil in any community; and I believe such is the opinion of most of the reflecting men in the South, viewing the question in the abstract, without reference to any fixed and settled condition

⁸⁰⁰Benton's Abridgment Cong. Debates, Vol. VI., 37-8.

⁸⁰⁰Appd. Cong. Globe, 24 Cong., 1 sess., 400-1.

of society. . . . I have said that I thought the Abolitionists, even those moderate and rational ones whom we have among us [in Ohio], are doing evil instead of good; and I think further, if they could be convinced of this, they would cease to meet and petition on the subject. They do evil, in the first place, because their views and wishes cannot, in the estimation of the great body of the Southern people, be separated from those mad and reckless fanatics who attempt, by various devices, to excite insurrection among the slaves, and bring on all the horrors of a servile war."¹⁷⁰

Feb. 15, 1836, Senator John M. Niles, of Connecticut, on the floor of the Senate said, "Abolitionism consists of two kinds: abolitionism of the old school, and abolitionism of the new school. The former amounts to nothing more than a rational wish and desire for the emancipation of all persons held in bondage, and a disposition to advance that object by the diffusion of knowledge and the progress of society. Of this kind of Abolitionists were Franklin and Jefferson; and there are many such at the North, and I presume at the South. . . .

"Very different from these are the abolitionists of the new school. What are their principles? I judge of them from their own publications, which I have examined. They propose an *immediate* abolition of slavery, and against the will of those interested in it. They, therefore, propose to abolish slavery by *violence*. And this they design to effect in communities where they do not reside, and have no interests or sympathies with the inhabitants. Whatever may be their intentions, no rational person can have a doubt that the scheme has a tendency to insurrection, massacre, and a servile war.

"They regard slavery as a theological question. They say it is a sin and a moral evil in the sight of God and man, and ought to be eradicated from the earth; and that it cannot be wrong to remove an evil. They aver that they have nothing to do with the consequences.

"Can men be sane who avow principles like these, who are pursuing an object having the most important bearing on the vital interests of society, which expose it to all the horrors of insurrection, massacre, and servile war, and yet declare that they have

¹⁷⁰App. Cong. Globe, 24 Cong., 1 sess., 220.

nothing to do with the consequences of their own acts? To call such men fanatics is too mild a term. I have no concern with their motives, but like all other moral agents, they must be held responsible for the natural and obvious consequences of their own acts. This principle, true in morals, is no less so in politics. Is it to be wondered at that a scheme, based on a total recklessness of consequences, should have excited the almost universal indignation of an intelligent and moral people? . . . But there is reason to believe that there is one part of this scheme of Abolition which has been kept more out of sight—that is, amalgamation. Their first movements appear to have been directed to this object.”⁷¹

Such is the proof of the existence of the danger—and the evidence, too, of men who were not in sympathy with slavery, and whose objects were to prove that this aggression was the work of a small Northern minority. To this end Senator Niles presented a number of resolutions passed by various Northern gatherings, at one of which the governor of Connecticut presided. Here are representative examples:

“Resolved, That in view of these obvious principles, it is a violation of the spirit of the Constitution for citizens of one State to enter into combinations (to give more energy to their efforts) for the avowed object of effecting a change in the institutions, laws, or social relations of the people of other States, who, as regards all such matters, are as independent communities as they would have been had they not entered into the Confederacy.

“Resolved, That the conduct of the Abolition societies, in publishing and distributing in the slave-holding States in violation of their laws, newspapers, and pamphlets, the natural and obvious tendency of which is to excite insubordination and insurrection among the slaves, and expose the country to all the horrors of a servile war, is highly censurable, and cannot fail of meeting the reprobation of every friend of his country.”⁷²

But protests of the North against the mad, reckless, and dangerous movement rapidly gathering in their midst, did not stop it; it swept on until it had become so bold and powerful that

⁷¹App. Cong. Globe, 24 Cong., 1 sess., 115-124.

⁷²App. Cong. Globe, 24 Cong., 1 sess., 115-125.

armed, organized rebellion laid waste our middle West; it finally paralyzed the arm of the nation's executive; it brought Congressional power not only under its dominion, but made it armed sedition's boldest champion.

Let us now go back to the South and see the effect upon both classes of her people, and the conditions which the Northern movement produced.

Contemporary with the decrease of the emancipation efforts in the South, we find the governors of the several Southern States calling attention to the results in the South of Northern abolition efforts; we find legislatures enacting measures for protection or restraint; we find the people gathering in mass-meetings declaring that danger existed and that its increase was threatened through the abolition efforts of the North. In 1826 Gov. Johnson in his message to the legislature of Louisiana called the attention of that body to the "unconstitutional and dangerous," using his words, attitude of the abolition North towards Southern slavery, and pointed out that the methods used in the South by Northern abolitionists did not "subserve the interests of an enlightened philanthropy," because those methods incited the slaves to acts "which would necessarily bring down upon them calamities far greater than any which" existed.⁵⁷³ This was one year before the date (1827) which Mr. Dunn, a Northern historian, fixes for the beginning of the change in the Southern attitude toward slaves.⁵⁷⁴ Much earlier (1786) than this we saw the underground movement beginning to gather momentum and extensiveness.⁵⁷⁵ Follow the history, and as abolition efforts increase in extent, variety, and effectiveness, the South is driven from one counter, defensive, move to another in an effort to thwart dangerous aggressions. It was not until 1830 that Virginia,—which is generally taken as a representative of that period of Southern legislation,—passed her restrictive laws, and forbade free negroes to meet to learn to read and write, and forbidding white persons to assemble with such negroes. Similar legislation, applicable also to slaves, was not passed in Alabama until 1832.⁵⁷⁶ Up to this late period no State had been more

⁵⁷³Chas. Gayarre, *History Louisiana*, Vol. IV., 651.

⁵⁷⁴*History Indiana*, 190.

⁵⁷⁵House Docs., Vol. LXII., 396.

⁵⁷⁶Kent's Com., Vol. II., 253, 13th ed.

liberal to manumitted negroes than Virginia, as was seen from an early legislative provision in their favor quoted elsewhere. From the earliest time slaves could be set free and live among the whites and acquire property in Tennessee; but in 1831, she, too, found it necessary to her peace and security, to require freed negroes to be removed beyond the State.²⁵³

Concerning the causes of the restrictive laws of the South, James Kent, among the first of America's great lawyers, and New York's greatest commentator, writing about the time they were being placed upon the statute books, said, "These several penal restrictions must have proceeded from the strong and fearful apprehension that the kind of knowledge and instruction which are interdicted, would greatly increase the means, capacity, and tendency of slaves to combine for purposes of mischief and insurrection. The great principle of self-protection," continues this great Northern lawyer, "doubtless demands, on the part of the white population dwelling in the midst of such combustible materials, unceasing vigilance and firmness, as well as uniform kindness and humanity. The evils of domestic slavery are inevitable, but the responsibility does not rest upon the present generation, to whom the institution descended by inheritance. . . ."²⁵⁴

Moved by some open outburst of slaves against the whites, popular assemblies now and then for years called unmistakable attention to the presence of the emissary and his work. For instance, one of the strongest expressions of Southern feeling is that which Greeley says was put into the form of a resolution at Clinton, Mississippi, September 5, 1833:

"Resolved, That it is our decided opinion that any individual who dares to circulate, with a view to effectuate the designs of the Abolitionists, or any of the incendiary tracts or newspapers now in the course of transmission to this country, is honestly worthy, in the sight of God and man, of immediate death; and we doubt not that such would be the punishment of any such offender in any part of the state of Mississippi where he may be found."

Before 1835 the exciting seditious literature had become so prevalent and so wide in its circulation, that sterling old President

²⁵³Ib., 258.

²⁵⁴Ib., 254.

Jackson, who stood for the Union like no other man in America, found it necessary to address Congress and call their attention to "emissaries from foreign parts who have interfered in this matter" of Southern emancipation, as he mildly put it; and with reference to incendiary Northern literature he said, "I must invite your attention to the painful excitement produced in the South by attempts to circulate through the mails inflammatory appeals addressed to the passions of the slaves, in prints and various sorts of publications, calculated to stimulate them to insurrection and to produce all the horrors of a servile war."⁵⁷⁹ A sack full of this literature at one time in this same year was discovered in the post-office at Charleston, S. C.⁵⁸⁰

But the abolitionists doubled their energy, and by the next year, 1836, the attempts to raise the negroes had reached all parts of every slave State. So dangerous had they become that Gov. White, of Louisiana, called the attention of his legislature to the existence of the organizations that "printed and scattered 'collection of horrors and atrocities' which had no other reality than what was given to them by the heated brains of their inventors." The governor laid before the legislature a collection of these documents and further said, "They will suffice to give you a just idea of the kind of war which is prepared in the bosom of our own country, against our peace, our fortunes, our lives, and those of our children."⁵⁸¹

Very much of the most objectionable literature circulated throughout the South, especially in the earlier years of the abolition agitation, is preserved only by description. A few inflammatory prints are yet extant, but most of the circular matter, pamphlets, and papers are gone. We may get some idea of what was being done from the report of the American Anti-Slavery Society in 1837. The report shows that from the New York office alone, this organization published and distributed yearly over half a million copies of the following:—

Bound volumes.....	7,877
Tracts and pamphlets.....	47,250
Circulars, etc.,.....	4,100

⁵⁷⁹Compilation Mess. and Docs., Vol. III., 175: Message Dec. 7, 1835.

⁵⁸⁰Burgess, *The Middle Period*, 271.

⁵⁸¹Gayarre, *History Louisiana*, Vol. IV., 657.

"Prints"	10,490
<i>Anti-Slavery Mag</i>	9,000
<i>Slaves' Friend</i>	131,050
<i>Human Rights</i>	189,400
<i>Emancipator</i>	217,167

Mr. Burney, president of this society, says, "Other publications of similar character are issued by state societies or individuals." While the membership was not large in 1833, yet there were several of these State organizations busy scattering their literature, and so we may see that millions of pamphlets, "prints," etc., went throughout the country.

We get some idea of this vast literary production, when we are told by Mr. Burney that the *Slaves' Friend* is "a small monthly tract, of neat appearance, intended principally for children and young persons, [and] . . . is replete with facts relating to slavery, and with the accounts of hair-breadth escapes of slaves from their masters and pursuers that rarely fail to impart the most thrilling interest to its little readers." He says these were distributed both in "the free and the slave states." Of course, this "neat little monthly" was read to the slaves at every opportunity. It was "replete"—full—of "hair-breadth escapes." They were always ESCAPES, thus imbuing the mind with the idea that the runaway ALWAYS escaped. This monthly was the product of shrewd brains; it purported to be for children; the simple-minded slave could be more easily impressed with the idea that along the path of escape thousands of friends awaited his coming, and stood ready to defend him with their lives if he would but start; the story had a suffering negro, full of bruises and uttering wails of anguish, fleeing from some scowling master with whip and branding irons, thus leaving the impression on the minds of the white children of the North that such things were really characteristic of Southern slavery. Just such publications did more to give a false impression with reference to the slave's condition than all the abstract books published on the subject. The "prints" were pictures, always overdrawn and misleading, such as "views of slavery in the South—a lynch court in the slave States—the scourging of Mr. Dresser by a vigilance committee in the public square in Nash-

ville—the plundering of the postoffice in Charleston, South Carolina, and the conflagration of part of its contents, etc., etc.”⁵⁸² Just what the “etc., etc.” were, Mr. Burney failed to tell. But he tells enough to show the inflammatory character of the productions. Dresser was represented as a martyr, being scourged for doing good, when anything the reverse was true; and the Southern people were represented as more lawless than other sections,—as people who resorted to “lynch justice” and brutal intimidation.

January 1, 1831, *The Liberator*, William Lloyd Garrison’s paper, one of the most uncompromising abolitionists the North ever produced, has an article headed “Walker’s Pamphlet,” under which it editorially says, “The Legislature of North Carolina has lately been sitting with closed doors, in consequence of a message from the Governor relative to the above pamphlet. The South may reasonably be alarmed at the circulation of Mr. Walker’s Appeal; for a better promoter of insurrection was never sent forth to an oppressed people. In a future number, we propose to examine it, as also various editorial comments thereon—it being one of the most remarkable productions of the age. We have already publicly deprecated its spirit.”⁵⁸³

In proof of the existence and circulation of such insurrectionary literature, and of various abolition productions, all of which tended in the same direction by the very force of agitation, I might quote numerous other writers, but I shall place in evidence at this time but one more. J. W. Moore, a prominent New York authority, whose sympathies are entirely with the North, says, “The abolition movement was vigorously prosecuted by means of newspapers, pamphlets, books, lectures, etc., and was continued without cessation.”⁵⁸⁴

There is perhaps not a reputable historian who would insist that in the early days Southern slavery could have been at once destroyed. All agree with President Lincoln when, speaking of slavery at the formation of the Constitution, he said, “They found slavery among them, and they left it among them because of the difficulty—the absolute impossibility—of its immediate removal.”⁵⁸⁵

⁵⁸²Anti-Slavery Examiner, No. 8, 19, 23.

⁵⁸³Old South (Meeting House) Leaflet, Boston, Mass., Vol. IV., 20.

⁵⁸⁴The American Cong., 336.

⁵⁸⁵Nicholay and Hay, Lincoln, Comp. Works, Vol. I., 505.

This opinion he never changed.⁵⁸⁶ When did the time for its removal arise? In answer to this question, I submit that, whenever it would have been, long before that time came, abolitionists—beginning with their agitation in the first Congress—had produced conditions which rendered emancipation in the South still less possible. To show this I am endeavoring to place cause and effect in their proper historical light. Not alone had the agitators a dangerous effect upon the slaves, but by their unrelenting scourge of the slaveholder for not doing immediately what all sober, sane men admitted could not be done at once, every sense of resentment characteristic of the best American manhood had been put in an indignant and antagonistic attitude. For as all admit, and as Moore says, from first to last abolitionists “demanded the immediate abolition of slavery.”⁵⁸⁷

So much for the anti-slavery literature which,—creative of dangerous conditions,—was prior to and hence drove the South to inhibitive legislation. Later we shall see the aspect of this literature just before the great frown, which it had excited, broke into the demoniacal laughter of fraternal war.

Slaveholders could not consider the mere question of emancipation. There was a consideration of vastly greater importance; and that was as to what should be done with these freedmen. It was but natural that the Southerner looked to the North where the process of emancipation years before had begun. In determining *when* he might safely inaugurate a plan of ridding himself of what he admitted an undesirable condition, naturally he scrutinized the attitude of his Northern brothers toward free negroes and mulattoes. What did he find? He saw (1) that during their slavery days the Northern people had restrictive laws no less rigorous than those of the South; (2) he saw that during all of her history the people of the North had shown less enlightened and less unselfish consideration for the negro than had the Southern people; (3) he was staggered by the fact that the very people who fought for the emancipation of the Southern slave with so much zeal, found the free negro unfit for the exercise of citizenship,—and more disappointing yet, he found his Northern pseudo-philanthropists generally

⁵⁸⁶Bell's Lincoln, 114, 132.

⁵⁸⁷The Am. Cong., 336.

uncompromisingly unwilling that free negroes should even dwell in their States. Naturally the Southerner argued that if Northern States found anti-negro legislation necessary, and the free negro dangerous, a less desirable and more dangerous condition would result in the South if her millions should be freed in their then condition. It may be well to caution the young reader to keep in mind that the negro of the agitation period was not the negro as we know him to-day. If Northern States, Pennsylvania for instance, which forbade more than four slaves to assemble, and which forbade them to carry arms,^{***} where her slave population was never large, and at a time when white instigators to insurrection were unknown to her, needed such regulations, it is rather a wonder, than otherwise, that the South withstood the pressure of her dense slave population so long. Similar laws in the South did not exist until long after Northern abolitionists had made them necessary. The question of emancipation was one wholly for each State, so guaranteed by the Constitution, so declared repeatedly by Congress, and so acknowledged by Northern leaders. Southern slavery was no concern of the North, and the effort to force upon the Southern States conditions which almost the entire North itself spurned, was an offered indignity which has no parallel in the history of the world.

Since it is a too common practice for a certain school of writers to catalogue what they call the "black laws" of the South; and that, too, without showing their long prior prototypes of the North and those of the new Territories and States where New England influences were strong, it will be necessary to see something more than I have elsewhere given of this history in the several States. This will help us to determine how far the history of freedom in the North indicated that the people of the South would be the better with their millions of slaves turned into freemen. It will also help us to determine whether the Northern faction which finally and accidentally became the party of emancipation, were really the unselfish friends of the free negro. In the eyes of the world, since the North was mainly the home of that party, that section has credit for having taken an early enlightened moral stand for oppressed humanity; it is lauded as the champion of freedom; it is crowned

^{***}Mem. Hist. Soc. Penn., Vol. I., 385.

as the regal knight of the oppressed; it has gone forth under the color of unselfish battle for a degraded race as though moved by the dictates of a Christian conscience. How much of error, how much of falsehood and hypocrisy, crouch under these claims, even a brief review of anti-negro legislation cannot fail to reveal.

In Connecticut, in 1833, Chief-Justice Doggett held that free negroes were not citizens within the meaning of that term as used in the Constitution of the United States. The legislature of the same State enacted a law making it a penal offence to set up or establish any school or literary institution for colored persons not in habitants of the State; and any negro coming to the State for instruction could be forcibly removed therefrom. This was only two years after Virginia, for instance, had passed a law regulating the teaching of negroes. If it was dangerous to teach free negroes in Connecticut, which had no slave population to incite, who will say that Virginia's statute was not a necessity, surrounded as she was by great numbers of slaves in the midst of whom were Northern white men clamoring to fill their minds with deeds of violence?

About the same time an able Pennsylvania authority held that the negro was not a citizen; and in that State as late as 1837 negroes and mulattoes were denied the right of suffrage.⁵⁹⁹ In nearly all the Northern States, declares Chancellor Kent, who wrote some years prior to the Civil War, the negro is an object of social and legal restraints.

The Ohio school law of 1829, enacted by her legislature, declared that the public school system was for "white youth" only, and thus the negro was denied the right to be taught. Nor was this the result of her Southern immigrants. Charles Moore, than whom none can speak with more authority, writing in 1901, said, "On the Muskingum and on Lake Erie New England colonies had been planted under such conditions and with such strength as to make New England ideas the dominant force throughout Ohio even to this day."⁶⁰⁰

Of the newer States where New England ideas and policy prevailed, Iowa refused, from the ratification of her first constitution, to allow negroes the elective franchise, or to treat them as entitled even to representation.⁶⁰¹ The constitution of Michigan, ratified in

⁵⁹⁹6 Watts, 553.

⁶⁰⁰The Northwest Under Three Flags, 384.

⁶⁰¹Hough, Am. Consts., Vol. III., 368.

1835, forbade the enfranchisement of negroes;⁵⁹² and by popular vote in 1850 she again refused the right of suffrage to the negro.⁵⁹³ Minnesota's first constitution made a similar discrimination in favor of white men, and by popular vote in 1855, 1865, and 1867 the people declared the negro unfit for the exercise of citizenship; and the disability, under which they place him, was not removed until 1868.⁵⁹⁴ By the constitution of Nebraska only white citizens could vote, or "white persons of foreign birth," when naturalized.⁵⁹⁵

Connecticut by an early constitutional provision made and for many years continued a similar provision.⁵⁹⁶ Neither did she make any effort for the education or betterment of the negroes. New Jersey's constitution of 1844 placed the elective franchise in the hands of the whites alone; and not until 1875 were negroes placed upon political equality with the whites in that State.⁵⁹⁷ In 1821 New York placed a suffrage provision in her constitution which practically barred all negroes of suffrage rights. Before a negro could exercise the elective franchise she required him to own in his own right \$250 worth of land, and if not born in the State, he must have resided there for three years. This did not apply to white people. The question of equal suffrage to colored people was submitted to the people in 1846, again in 1860, and again in 1868, and each time refused by large majorities.⁵⁹⁸

Even in 1864, when Northern people, or those of Northern descent, came to establish a State constitution for Nevada, they provided that "white male citizens," not convicted of treason or felony, or who had not "voluntarily borne arms against the United States, or held civil or military office under the so-called Confederate States, or either of them," could exercise the right of American citizenship.⁵⁹⁹ Yet in her Declaration of Rights she declares "all men are by nature free and equal."⁶⁰⁰ The constitution of no State shows more antipathy to the Southern slaveholder than this of Ne-

⁵⁹²U. S. Ch. and Consts., 984.

⁵⁹³Ib., 1016.

⁵⁹⁴Hough, Am. Consts., Vol. I., 723.

⁵⁹⁵Ib., 829.

⁵⁹⁶U. S. Ch. and Consts., 263.

⁵⁹⁷Ib., 1315, 1325.

⁵⁹⁸Ib., 1353.

⁵⁹⁹Ib., 853.

⁶⁰⁰Ib., 850.

vada, or manifests more plainly the Northern prejudice against the Southern people. (See Art. XV.) Why? Because the North said the South should have given negroes equal rights. But when it came to a question affecting *their own* interests, these same would-be-exemplars made assurance doubly sure and made it impossible not only for a negro to vote, but to hold any office whatever—not even oversee a public road.⁶⁰¹ I have several times called attention to the same proscriptions in favor of New England settlers in Kansas, Indiana, Ohio, and Illinois; all of which were placed upon the statute books or incorporated in the fundamental laws of those respective States early in the first of the last century. Even the more recent years of legislation touching the unfortunate negro do not develop for the North any higher moral or civic consideration. Among the acts of the general assembly of Illinois, 1855-'56, we find:

"If any negro or mulatto, bond or free, shall come into this State and remain ten days, with the evident intention of residing in the same, every such negro or mulatto shall be guilty of a high misdemeanor, and for the first offence shall be fined the sum of fifty dollars, to be recovered before any justice of the peace, in the county where said negro or mulatto may be found. . . . If said negro or mulatto shall be found guilty, and the fine assessed be not paid forthwith . . . said justice shall advertise said negro or mulatto . . . for ten days, and on the day and at the place mentioned in said advertisement, the said justice shall at PUBLIC AUCTION proceed to SELL said negro or mulatto to any person who will pay said fine and costs."⁶⁰² Shade of Lincoln! And is this the "awakened" conscience of Illinois? Dragged from his native home in Africa, the negro is denied a resting place and hath not where to lay his weary head in the enlightened days of 1855-'56 in the great State of Illinois. Concerning the same or a similar law which was in force in Illinois in 1853, Smith says, ". . . this law was unequalled for the anti-negro sentiment displayed." This law was sanctioned, too, by a large majority of the popular vote. "The prosecutor or informer was to have one-half of the money, the remainder was to

⁶⁰¹Ib., 874.

⁶⁰²Carey, *The Slave Trade, Domestic and Foreign*, 375 (1856); Hinsdale, *The Old Northwest*, 112, 344.

be used for the *deserving poor*."⁹⁰³ "Mr. Judd, Senator from Cook and Lake counties, . . . moved to amend the title to read, 'An act to establish slavery in this State,'" in derision of the supporters of the measure. Illinois forgot that she had once employed negro slaves, and that many of her public buildings were built by slave labor, which had been hired from the master by the State under a special enactment of her legislature.⁹⁰⁴ Michigan, by her constitution of 1850, sanctioned and ratified by popular vote, refused the negro the right of citizenship. By statute she had forbidden negroes to reside in the State since April 13, 1827.⁹⁰⁵ In 1851 Indiana held a convention to revise her constitution. In this convention a "motion that negroes vote at all elections was rejected by 122 to 1, receiving only the support of the one Free Soiler." This same constitution made all contracts with negroes or mulattoes void. And persons encouraging negroes to remain in the State were to be fined; and all negroes or mulattoes were forbidden to come into the State. "This article was submitted separately to the people; and Indiana in the autumn of 1851 signalized itself by decreeing negro exclusion by an enormous majority."⁹⁰⁶ About the same time Ohio revised her constitution, and by it negroes were again denied the right to vote, to which restriction there was scarcely no opposition in the entire State.

The first State in the Union to expel negroes from her borders by either legislation or fundamental law, was Massachusetts. In 1788 she passed a law expelling all free negroes. Commenting on this, Thomas, born in Ohio of negro and German parentage, says, "But Massachusetts was not alone in this respect, for race proscription ran high in all the Northern colonies. In fact, in many of them, persons of color could neither own property, make contracts, nor testify against white persons; and it is only within the last third of a century that many of these restrictions have been removed."⁹⁰⁷ This was written in 1901, which places the removal of the proscriptions of which he speaks about 1870. After citing the Massachusetts statute in full, Moore adds that all negroes "were

⁹⁰³Liberty and Free Soil Parties, 335.

⁹⁰⁴Hinsdale, Old Northwest, 344.

⁹⁰⁵2 Kent, 258, n.

⁹⁰⁶Smith, Liberty and Free Soil Parties, 336.

⁹⁰⁷The Am. Negro, 414.

required to depart in two months on penalty of being apprehended, whipped, and ordered to depart. The process and punishment could be renewed every two months." Then he also says, "Realizing the 'dead weight' already resting upon them in the body of their own free negroes (though comparatively small in number), they evidently thought it 'sagacious' to prevent any addition to it."⁸⁰⁰ Again he adds: "The reader will not fail to notice below, the arbitrary and illegal extension of the statute, in its application to 'people of color, commonly called Mulattoes, *presumed* to come within the *intention*' of the law." He then gives a published notice ordering over two hundred negroes and mulattoes to leave the State in less than thirty days.⁸⁰¹ In 1800 one-fourth of the negro members of the African Benevolent Society were driven out of the commonwealth.⁸⁰² The writer says he found the same notice in a Philadelphia and also in two New York papers, all of which were earnestly striving that the expatriated creatures hear of their doom. The same act appears in "the revised edition [of Massachusetts laws] of 1807 without change." Again in 1821 the legislature became alarmed on account of free negroes, "the increase of a species of population, which threatened to become both injurious and burdensome," and appointed a committee to report prohibitive laws.⁸⁰³ The anti-negro laws were continued in the revised statute of 1825, and not before 1834 were they effaced. Massachusetts never emancipated her slaves by either legislative or by fundamental law ratified by her people. A single judge was found, who, on one occasion, declared that the words "all men are born free and equal" in her constitution might be used to declare the freedom of a girl who was suing in his court. The case grew out of a blow inflicted with a red-hot shovel in the hands of the irate wife of Col. Ashley, of Sheffield, Massachusetts.⁸⁰⁴ This holding was clearly an error, but since it was already seen that the negro on Northern soil was an unprofitable servant, from that time slaves began to be manumitted or sold into slavery in other places.

⁸⁰⁰Geo. H. Moore, *History of Slavery in Mass.* (Appletons, New York, 1866), 230.

⁸⁰¹Ib., 231 to 236.

⁸⁰²Ib., 236, n. 1.

⁸⁰³Ib., 238.

⁸⁰⁴Henry M. Field, D. D., *Bright Skies and Dark Shadows*, 132-3.

Nor did the New Englander lose his contempt for the unfortunate negro when far removed from the conservatism of his native soil. On the rich shores of the wonderful and varied region which is now California and Oregon, the New Englanders or their descendants opposed—not slavery—but the negro. Nature gave to this region from her most bountiful and delightful store—the god of fortune selected it as his home; its snow-crowned mountains, interspersed with valleys of unlimited productiveness; its streams whose piscatorial allurements are unsurpassed; its forests of shapely firs; its treasures of gold and natural highways of commerce—all leave nothing for which the heart can repine. The New England poet caught the musical swell of the deep-rolling “Oregon” where now the Columbia goes out to the ocean to bear back vessels of commerce second to none. Sure here we should find the “home of the brave and the land of the free.” What is our surprise when we turn to the constitution of Oregon and read:

“No free negro or mulatto, not residing in this State at the time of this constitution, shall ever come, or reside, or be within this State; or hold any real estate, or make any contract, or maintain any suit therein; and the legislative assembly shall provide by penal laws for the removal by public officers of all such free negroes and mulattoes, and for their effectual exclusion from the State, and for the punishment of persons who shall bring them into the State, or employ or harbor them therein.”¹³³ This provision was sustained by an overwhelming majority at the adoption of the constitution in 1857, and to this day remains in the constitution of Oregon. No longer ago than about 1897 the now Republican State of Oregon by popular vote refused to expunge her organic code of this relic of New England barbarity.

This negro sentiment made its appearance in Oregon about the same time her provisional constitution forbade slavery, which was either in 1843 or 1844. The legislature of her provisional government in 1844 enacted a law which ordered all free negroes to depart from the Territory, and forbade the coming of others.¹³⁴ Mrs. Frances Fuller Victor, who wrote most of the Oregon history in H. H. Bancroft's Works,¹³⁵ is inclined to sneer at this proscription

¹³³U. S. Ch. and Const., 1506.

¹³⁴Hittel, History Cal., Vol. IV., 47.

¹³⁵W. A. Morris, A. B., *Oregonian*, Portland, Nov. 16, 1902.

of the negro as the work of the Southern immigrants or their children."⁶⁶ Her mistake is only too common with those whose early prejudices were determined by the sophistry of abolitionists peculiar to her native New England home. They forget that the expatriation of the negro began in Massachusetts, and gradually spread until in every Northern State the negro found almost universally only those to be his friends who could use him to accomplish ends in which his personal good had no consideration.

In 1844 the few free negroes in Oregon had given trouble by inciting the Indians to criminal depredations. This induced the Southern-born members of the provisional legislature to incorporate in their laws a clause providing for the removal of this source of danger. At that time Oregon embraced Washington, Idaho, Montana, and the present State of Oregon; the region was yet infested by tribes of hostile and blood-thirsty natives. The two votes by Northern-born men who were members of the provisional legislature favored legalizing slavery in the Territory,⁶⁷ so that in their legislative representatives the Northern immigrants at that time had little of which to be proud, so far as their position with reference to the negro was concerned.

Take it as we may, the seven men, three of whom were Northern-born, who essayed to make laws for the thinly-settled and unorganized wilderness of our new northwest, as it was in 1844,—cannot be said to be representative of any prevailing local sentiment. But not so in 1857. When the constitutional convention met, talent, experience, and loyal patriotism had come together—men representative of the thousands of their hardy and enterprising constituency. Neither the representatives nor the people were unused to self-government; nor were they unfamiliar with the history of the negro both as a freeman and a slave. Of the fifty-nine members of this constitutional convention, twenty-seven were born in the South and in slave States; thirty were born in the North and in free States; Ireland and Germany were the respective homes of the other two.⁶⁸ In the eight free Northern States represented, anti-negro laws, of various degrees of severity, either then yet did exist

⁶⁶Bancroft's Works, Vol. XXIX., 439.

⁶⁷W. H. Gray, History Oregon, 378.

⁶⁸H. H. Bancroft's Works, Vol. XXX., 423.

or shortly had existed. Elkins, of Pennsylvania, is the mover and author of the Oregon anti-negro constitutional provision; he offered in the convention a resolution, "That a clause be inserted in the Constitution to prohibit *free negroes* or mulattoes coming into or settling in this State."⁶¹⁹ Unfortunately, the Journal does not give the individual vote upon this resolution; but, as we have seen, it was incorporated in the constitution; and, since Northern men were in the majority, their failure to reject it, together with its origin in their ranks, leaves the responsibility with them. It was from a Southerner, Judge McBride, of Missouri, that the movement and resolution sprang to prohibit involuntary servitude.⁶²⁰ This had the support of only six Northern-born delegates⁶²¹ and four Southern men. This emancipation effort having failed, the convention provided in the constitution for a vote upon the slavery question, and it went to the people for primary determination. As far as disclosed, throughout the proceedings, that tendency, which had so strongly marked the New England immigrants in Ohio, Illinois, and the motives of Massachusetts and other Northern States, to expatriate the free negro and establish a government for free white men only,—having regard alone to the welfare of the superior race,—predominated the actions of the Northern-born men in this convention. For instance, Smith, of New York, offered the resolution declaring, "That we, the representatives of the freemen of Oregon, in convention assembled, in their name, and by their authority," ordain the constitution;⁶²² which language was adopted and passed into the organic law of the State. The vote upon this resolution is not given. This was meant to declare that negroes, mulattoes, and Chinamen, had no part in the government being formed by the convention; and this sentiment was ratified by the people.

California has a record no less bitter toward the African race. Congress never created for her a Territorial government. From the treaty of peace with Mexico at Gaudalupe Hidalgo, February 2, 1848, Congress took no action with reference to California, except by act approved March 3, 1849, "the revenue laws were extended

⁶¹⁹Journal Const. Conv., 42.

⁶²⁰Journal, 61.

⁶²¹Ib., 62.

⁶²²Journal, 96.

over it, and it was erected into a collection district; but since no United States courts were in existence there it was provided that violations of the revenue laws should be prosecuted in the Supreme Court of Oregon or the district court of Louisiana, until September 9, 1850, when California was admitted into the Union as a State."⁶²³ During this time civil government oscillated between the military power inaugurated January 11, 1847, by Commodore Stockton by order of the President of the United States, and various local bodies. But the local authorities did not forget to provide against the coming of the free negro. The opposition to the free negro was approved by the people in the Constitution of 1849 which made only whites competent voters. It was expressly declared by the constitutional convention that this discrimination was meant to apply to negroes.⁶²⁴ In 1858 "there was a renewal or attempted proscription against free negroes. A bill was introduced in the assembly of 1858 to prohibit the immigration to and residence in" the State of free negroes or mulattoes, "which passed both houses."⁶²⁵ That California, from the time our troops drove Spanish authority from her borders, was dominated by Northern-born men is an unquestioned fact. Her Southern-born immigrants, during her formative period, had little weight in determining her laws or policy.

From the oldest New England, to the newest northwestern State or Territory, all legislation looked solely, at least always primarily, to the interests of the white man; but when it came to questions concerning the South, with strange inconsistency, the North always insisted that the interests of the negro were paramount to the interests of the whites of the South. February 23, 1849, Horace Mann severely arraigned the South because he insisted that no rights were accorded negroes in that section, and insisted that every possible oppression was used to stifle development. In his speech—which is representative of the many similar ones made by Northern representatives—in the lower House of Congress, he admitted that the then conditions of the Southern negroes were great improvements over their original conditions, but he said, "Has their condi-

⁶²³Reports of Committees, 36 Cong., Vol. III., No. 508, Minority Report, 19.

⁶²⁴Hittell, History Cal., Vol. II., 761.

⁶²⁵Ib., Vol. IV., 244.

tion resulted from any proposed plan, any well-digested, systematized measure, carefully thought out, and reasoned out, and intended for their benefit? Not at all. In all the Southern states and legislative records there is no trace of any such scheme. . . . Even the dogs have professional trainers. But not one thing is done to bring out the qualities of manhood that lie buried in a slave."⁶²⁶

What do the statute books of the North say? What "carefully thought-out and reasoned-out plan" do we find in the North—even in the newer North or even in the old Northwest in whose lap was born the Republican party, and from whose bosom emancipation for the Southern slave drew much of its vitality? NOTHING; even the dogs had both a trainer and a kennel wherever the Northern white man found a home; but *there*, by fundamental law, by legislative enactment, and by popular decree, the negro was forbidden even a kennel.

The free negro was found to be a factor of danger and uneasiness all over the North. In New York or upon the shores of the Great Lakes he was feared. In Michigan, for instance, a State without any direct or indirect white Southern immigration of any consequence, as late as 1834, the negroes whom native inhabitants had emancipated, together with some who had fled from the South, put Detroit in such a state of riot that the terror of a massacre at their hands required the presence of a company of soldiers to quell.⁶²⁷ So the question which constantly confronted the Southern people was, What shall we do with our slaves as we set them free? Both individuals and organizations were, during all the years, busy trying to solve the problem. In 1816 the Kentucky Abolition Society communicated a memorial to Congress in which they pointed to what was unquestionably a truth, saying "great numbers of slaves have been emancipated . . . and it may be expected . . . from the spirit of benevolence that seems to be taking place among all classes of citizens, that the number will daily increase." Then they set forth the fact that these negroes and mulattoes which were being emancipated had been forbidden to come into and dwell in various Northern States, especially the newer ones; and, pointing to the

⁶²⁶Cong. Globe, 1849.

⁶²⁷Cooley, History Mich., 213.

crowded condition in the South, they called attention to the fact that these negroes had no opportunity to acquire homes, and no newer country to which they could go and secure homes or earn wages. Since the free negro was a dangerous factor in the North, he was an infinitely greater one among his fellows who were slaves—stimulated as he was by insurrectionary emissaries; therefore Congress was asked to set apart from some of her vast unoccupied territory a country for the emancipated negro, to furnish transportation to it, to assist him to start in life; and, not to turn him loose like the colony at Sierra Leone, but to keep him under Government supervision and tutelage until he could care for himself. Here was something practical; we have applied a similar system to the Indian; here was a proposition humane toward the negro, and helpful toward universal emancipation; here was a plan which interfered with the rights of no State or individual. Did Northern Congressmen champion the cause? What did Congress say? They endorsed the committee report which said, "The committee can see no cause for the interference of the Government on this subject; they have consequently prepared a resolution which is respectfully submitted:

"Resolved, That the prayer of the petition ought not to be granted."²²² Alone and unguided, the negro had not the "fitness or capacity" to provide for himself; under the strong arm of the government, backed by a small per cent. of the millions spent on Indians, opportunities for safe emancipation should have been offered Southern masters.

Since nothing of the kind was done, let us look again to the southward and open again the statute books of the several slave States. At the hands of some writers, few pages in history have been more distorted than the Southern slave code. The fact is, that from the first to this day, surprising philanthropic consideration has been accorded the colored race, as a whole, by the South. The great slave State of Louisiana stands a model in humane consideration of both slaves and free negroes. In 1828 some effort was made to pass a bill excluding from that State free negroes. Insurrectionary negroes, incited by Northern whites, had already been, in no inconsiderable measure, successful in inciting the slaves to riot and murder. Here, then, was some excuse for such a provision; no

²²²Am. State Papers: Misc., Vol. II., 279.

such excuse—no excuse whatever, in fact—could the free States give for their anti-negro laws. Promptly Louisiana's governor vetoed the measure. The fact that no effort was made to pass the bill over his veto attests that he had a strong following of broad-minded and liberal Southerners. Down to the Civil War no such or similar bill ever went on the statute books of that State.⁶²⁰ Kentucky and Missouri (1821) were the first Southern States to provide by fundamental law for the expatriation of the free negro.⁶²¹ In the case of Missouri, I have already given the unquestioned evidence of Senator Benton, who proves that the agitation of the slavery question forced his State to such protective measures. No State in the Union could boast a more humane treatment, or a more generous provision by fundamental law, of and for the slave than Kentucky. From 1799 to the Civil War,—reaffirmed in 1850—the constitution of Kentucky declared that the legislature “shall have full power to pass such laws as may be necessary to oblige the owners of slaves to treat them with humanity; to provide for their necessary clothing and provision; to abstain from all injuries to them, extending to life or limb.”⁶²² “Full power to prevent slaves being brought into this State as merchandise,” was also given her legislature.⁶²³ Similar provisions are to be found in the slave code of Missouri.

Not only do we not find the proscription of free negroes in Alabama, but we find her constitution of 1819 providing “to prevent slaves being *brought into this State as merchandise*,” and also to oblige owners of slaves to treat them with humanity, to provide for them necessary food and clothing, and to abstain from all injuries to them extending to life or limb. Section two of this constitution assessed the same penalty for depriving a slave of limb or life as that imposed if the offence had been committed “on a free white person, and on the like proof; except in the case of insurrection of such slaves.”⁶²⁴ These provisions stood the *enforced* laws of the State to the Civil War.

⁶²⁰Gayarre, *History Louisiana*, Vol. IV., 651.

⁶²¹In 1818 Georgia passed a law to prevent free negroes emigrating to her borders; this law was much modified in 1824, and no return to the strict form was made until about 1860.

⁶²²Hough, *Am. Consts.*, Vol. I., 463.

⁶²³U. S. Ch. and Const., 665, 682.

⁶²⁴U. S. Ch. and Consts., 44.

Elsewhere I have mentioned the liberal provisions of the Virginia laws concerning both slaves and free negroes, and have pointed out that Virginia encouraged the manumission of slaves and required the master on manumission to make certain provisions for his former servants. From the earliest day down to 1850 free negroes found both a home and a welcome in the Old Dominion. By 1850 the insurrection spirit had been so deeply sown in her borders that it became necessary to follow the example set by her Northern sisters years before, and in that year³³⁴ free negroes were required to leave the State. But this requirement was fortified by conditions exceedingly liberal to the negro. A detailed glance at this law must prove valuable.

Ignoring the antecedents of Southern negro laws, even some of our English neighbors cry out in anguish against "that hideous slave code," as we hear so distinguished a man as our Canadian brother, Goldwin Smith, D. C. L., while purporting to write *The Political History of the United States* (McMillans, 1899). As he multiplies interrogatives instead of proof, or reaches general conclusions through isolated and unrepresentative instances, and asks, "Why was Southern legislation a code of terror?" I cannot help but see the analogy of such argument to that error one would make should he, finding a corpse on the street, rush wildly around exclaiming, "Why was this man *murdered*?" without inquiring into the *facts* to see whether there had been a justifiable or excusable *homicide merely*, or a malicious, wilful, deliberate, and felonious killing of such malice aforethought as really constituted *murder*.

Just here, lest my younger readers misunderstand my object in calling attention to writers widely read throughout our land, let me again make emphatic the fact that one purpose of this monograph is to examine the credibility of what, for what of a more definite distinction, is recognized as the Northern version of the Civil War's causes and the reasons which underlay secession. Hence, I have sought to examine writers who are not only representative of that side, but who have entered our libraries, or our schools, or our homes, and whose teachings thus fall into minds often too busy to examine assertions unaccompanied by evidence. I seek to stimulate a spirit of wider research.

³³⁴U. S. Ch. and Consts., 1928.

Now, if we even leave out of sight the real causes of "that hideous slave code" and look beneath its mask to see what it really did do, much of its "terror" will be seen to have been the variest hallucination. Take Virginia's negro laws, for instance, and this is well because they are generally treated as representative of Southern anti-negro legislation, and because no laws in the South have been more anathematized or given a more distorted interpretation at the hands of history. Not until 1851 did her constitution make its *first* provisions authorizing the legislature to "pass laws for the relief of the commonwealth from the free negro population, by removal or otherwise"; and provide that free negroes "heretofore emancipated" should forfeit their freedom by remaining in the State more than "twelve months after they became actually free." This same article provided that the legislature could neither emancipate living slaves nor their descendants yet to be born.⁸⁸⁵

Following the path of the constitution, the code declared, "No free negro shall migrate into this State," except those on legal business for another person, or one landing from a vessel on which he was a sailor, etc.; and also declared that emancipated negroes must abandon the State within a year. But we must not stop just there; if we go a little further into these "hideous" codices we readily discover that these were not harsh measures aimed at the negro merely because he was a negro or because the legislature meant to stop emancipation; nor were they meant to expatriate free negroes regardless of conditions—not a particle more than the laws for the expatriation and incarceration of pirates are not laws against those who make no piratical record. The free negro in the South was given a chance, provided his record and character deserved it,—and no matter who he is, character and record *must* determine his *immunity* from the operations of all penal laws. That it was the dangerous free negro that these provisions in the Virginia laws were meant to touch, is evidenced by the fact that the code *further provided* that any free negro who could "produce satisfactory proof of his being of good character, sober, peaceable, orderly, and industrious," might be permitted by the court of any county or corporation to remain in the State and reside in the said county or corporation. Thus the law continued down to the Civil War.⁸⁸⁶ That the

⁸⁸⁵Poore's Constitutions, 1928.

⁸⁸⁶Mayo's Guide (1860), 445.

law was enforced only against the dangerous and exceptional character—just as laws to-day are enforced against the dangerous highwayman—is proven by the fact that, as shown by the Federal census of 1860, thousands and constantly increasing numbers of free negroes actually resided openly and notoriously throughout the length and breadth of Virginia. Thus, years after the legislative regulation and nine years after that of the constitution, we find *safely* domiciled under the laws of the Old Dominion thousands of free negroes.

So it will also be seen that that part of these same provisions which regulated the gathering of slaves for religious worship, or to learn to read and write, was not meant so much to prevent the proper exercise of such privileges, but was to prevent the gathering of *numbers*, and to prevent the parasitical work of these who had long been trying to reach the slave under the guise of religion to teach him that slave insurrections were “devoutly to be desired.” This was the only way the South had of intercepting that slimy emissary who constantly accelerated his efforts to reach the slaves with prints insurrectionary in suggestion, or—worse yet—having pictures of white women in such relations to the negro as that the suggestion was unmistakable,⁸⁸⁷ and which were necessarily incitive of that revolting crime for which, in New England not so exceedingly long before, negroes were not only burned alive in the presence of their fellows, but where even an *attempted* assault upon a white woman sometimes produced a speedy cremation of the live negro.⁸⁸⁸

The importation of any negroes other than those already held under the laws of any State of the United States, was forever forbidden by the constitution of the Republic of Texas, 1836, and the violation of the provision was declared piracy.⁸⁸⁹ No stronger evidence was needed that the independence of Texas, or its annexation to the Union, did not mean an increase other than by natural birth—a growth not effected by territory,—in the number of slaves already upon the American continent. The fact that Mexico—and no one would think of having charity to accuse any Spanish people of that day of acting in any great national question from an enlightened Christian philanthropy—found slavery so unprofitable

⁸⁸⁷N. Adams, D. D., *View of Slavery* (Boston, 1854), 108.

⁸⁸⁸New Jersey Hist. Cols., by Howe et als., 39.

⁸⁸⁹Poore's Constitutions, 1760.

that she had abolished it, should have shown that other things *besides* a warm climate and soil productive of cotton, tobacco, or rice, must co-exist to establish and perpetuate negro slavery.

It is a remarkable bit of history that some of the Southern States were last in the entire Union—except new States which were admitted later—to abrogate the free negro's right of suffrage. As late as 1835 free negroes voted in three Southern States. South Carolina was the last of these to disfranchise her large free colored population. The attitude which her white people assumed on that question is striking proof that the Southern whites meant to treat the negro fairly and to give him, as rapidly as the unavoidable conditions of society and economics would allow, political and industrial opportunities. The history of the change which was made in 1835 in South Carolina's fundamental law, helps us to see that slavery was regarded as an evil to be destroyed as rapidly as possible; and that there was no condition which even excused the mob methods of Northern abolitionists; and also helps us to see that the proscriptions and disfranchisements of the North were not without influence upon the South.

Up to the ratification of the constitution of 1835, South Carolina's free negroes had enjoyed the high privilege of the ballot for over half a century; it had been confirmed to them by the constitution of 1825. One of the members of the convention of 1835, who was of that exceedingly few Southern men who held a different opinion, declared that "almost every one said slavery was a great evil."⁶⁶ Manumissions were evidently removing the evil, because at that time some counties of the State had as many as three hundred free negro voters—a number by no means insignificant. This, it is well to remember, was long after the cotton-gin had made cotton the great slave staple. Delegate Gaston voiced no small sentiment of the convention body which, it is fair to conclude, was largely representative of the entire people, when he declared that a person of color who possessed a free-hold, and who was an honest man, and "perhaps a Christian," "should not be politically excommunicated, and have an additional mark of degradation fixed upon him, solely on account of his color. Let them know they are a part of the body politic," he continued, "and they will feel an attach-

⁶⁶Proceedings and Debates S. C. Const. Conv. of 1835 (Raleigh, 1836). 80.

ment for the form of government, and have a fixed interest in the prosperity of the community, and will exercise an important influence over the slaves."⁶⁴¹ On the other hand, it was argued: "The constitutional provisions of other States in the Confederacy are not binding on us, in the revision of our fundamental Charter; but, in a matter of probable expediency, like the one now before us, the example of other States should fall with weight upon our minds." The speaker then referred to the "express exclusion" of free negroes from equal political rights in Connecticut, and pointed to the conditional suffrage of New York. "In Ohio," he proceeded, "a commonwealth peopled chiefly by New England, and partaking largely of its benevolent feelings toward this class of people, they are expressly excluded from voting." Thus the attitude of the North had brought the Southerner to feel that if in those States where both the free-colored and the slave population were small, privileges to the negro must be curtailed, certainly "as a matter of probable expediency" the densely populated Southern States much more demanded retrenchment. Considering the abolition war which, at that time, had long been pelting down upon the South, the justness and firm manliness with which this body of representative Southerners handled the situation before them, is a matter of no little gratification. "These persons are deserving of some consideration," affirmed Shober.⁶⁴² Said Giles, "We have the power and ought to devise some means of raising them from their degradation."⁶⁴³ Crudup declared that "no man could wish more than himself, to see the race of men in question raised from their degradation," but that he did not believe that their suffrage privilege at that time was hastening the desired end. This view, induced by the history of the North taken in connection with conditions then existing in South Carolina, actuated a small majority of the convention; and, reluctantly and with calm dignity, a close vote of 66 to 61 put it to a practical test.

After speaking of the strong tendency toward manumission which pushed the anti-negro laws of the South further down the page of history than those of the North, Webster, in the United

⁶⁴¹Ib., 79.

⁶⁴²Ib., 73.

⁶⁴³Ib., 74.

States Senate, March 7, 1850, said, "I impute to the South no particular selfish view in the change which has come over her. I impute to her certainly no dishonest view. It has followed those causes which always influence the human mind and operate upon it."⁶⁴⁴

Many instances might be given showing a strict enforcement by all the Southern States of those laws forbidding the enslavement of captured negroes, or those whose freedom followed by virtue of law. The decision of the Louisiana courts is most striking. "A slave was carried by the owner to France, where slavery was not tolerated, and under the operation of whose laws the slave became immediately free, and was brought back to Louisiana, it was held that the slave being free for one moment in France, could not be reduced to slavery again in Louisiana."⁶⁴⁵

In 1740 the Spaniards of St. Augustine instigated an insurrection of negro slaves in South Carolina. The slaves assembled and began their march toward Florida where they had been promised protection, and where those who had fled had been harbored. "In their march they plundered and burned every house, killed the white people," and "for fifteen miles spread desolation through all the plantations on their way." This insurrection led to a revision of the slave code, in which "more stringent provisions were made against the assembling of slaves and provisions against insurrections, but in the main the amendments to the code were in the negro's favor." By this code "a penalty of five pounds currency was imposed upon any person who employed any slave in any work or labor (work of necessary occasions of the family only excepted) on the Lord's day, commonly called Sunday. The selling of strong liquor to the slaves was prohibited. Slaves were to be provided with sufficient clothing, covering, food; and in case any owner or person in charge of slaves neglected to make such provision, any neighboring justice, upon complaint, was required to inquire into the matter, and if the owner or person in charge failed to exculpate himself from the charge, the justice might make such orders for the relief of the slaves as in his discretion he should think fit." Strict laws for preventing cruelty to slaves were a striking feature

⁶⁴⁴Works, Vol. V., 337.

⁶⁴⁵Kent's Com., Vol. II., 258, and cases there cited.

of this code; the burden of proving his innocence was thrown upon the master in such charges—a remarkable provision in the negro's favor. "By this act, also, the apparel of the slave was regulated, as were also the hours of labor. Owners were prohibited from working slaves more than fifteen hours in twenty-four from the 25th of March to the 25th of September or more than fourteen hours in twenty-four from the 25th of September to the 25th of March." This code "remained substantially the law in regard to slaves during the continuance of the institution in South Carolina for one hundred and twenty years after, and its provisions in regard to the killing of negroes were repeatedly enforced. It was, however, so amended in 1821 as to provide that if any one should murder a slave he should suffer death without the benefit of clergy; and if any one should kill a slave in sudden heat of passion, he should be fined not exceeding \$500 and be imprisoned not exceeding six months. . . . As late as 1853 two white men were convicted and executed under the provisions of the acts of 1740 and 1821 for killing a negro whose identity was not established, but who, under the act of 1740, was presumed to have been a slave."⁶⁶

The official censuses of the United States contain what is, to my mind, some very striking proofs of the contention that the slavery conditions of the South were misrepresented. There can be no doubt of the fact that the Northern agitation fed strongly upon the prevalent stories of abuse and mistreatment to which it was claimed the Southern slaves were subjected. Very many recognized that restrictive laws such as that which existed in New York during slavery, which "forbade all assemblages of the numerous slaves,—for the slaveholding burghers were haunted by the constant terror of a servile insurrection;"⁶⁷ or that in Pennsylvania, where not more than four slaves could meet at one time,⁶⁸ were not abusive or tyrannical. But Northerners, especially a very large and important class of women who became strong supporters of the underground railroad, were moved by the representations of the books, periodicals, and lecturers concerning the personal misuse and abuse alleged to be received by the slaves at the hands of masters or overseers. A

⁶⁶Annual Report Am. Hist. Ass'n 1895, House Documents, Vol. LXII., 657-8.

⁶⁷Roosevelt, New York, in *Historic Towns*, 55.

⁶⁸Memo. Penn. Hist. Soc., Vol. I., 385.

cringing negro, a scowling master—most likely that product of an over-zealous female mind, a Legree—bloodhounds, and a merciless whip were immediately suggested to a large number of Northern minds as soon as the word “slave” was seen or heard. As Webster pointed out in his famous seventh of March speech in Congress in 1850,⁶⁴⁰ so persistently had the Northern agitators distorted the truth that its correction had, most likely, ere then become impossible. In addition to the other evidence which I have presented in support of the contention that these agitators did use false statements with which the public was aroused, I desire to call attention to some things shown by the censuses of 1850 and 1860. So far as the facts with reference to slavery go, these two are the most important of our national censuses. Whatever is shown in favor of the South by these official returns, is entitled to considerable weight. Because, it is quite clear that an effort was made by some one connected with each of these reports, to show slavery in its most unfavorable light. I have already quoted Siebert, who points most conclusively to the fact that the figures and statements concerning the escape of slaves from the South are inadequate and fall short of the real truth.

The personal quarters of the slaves were second to those occupied by the laborers of no other part of the world. The census of 1850 tells us that the “homes of the negroes—on the average—are quite as good as those of the peasants and operatives generally in Europe, and better than those in Ireland—one house for every six slaves.”⁶⁵⁰ This was about the same as shown for the white people; and, with the exception of a small fraction of a single negro to the house, the same which maintained in the North long after freedom.

The per cent. of growth in slave numbers is important. Take the census of 1850. This was an important year, because in the decade which it closed there was much ado about the increase of slavery. Look at the figures. In Virginia, for instance, in 1800 the per cent. of slave increase was 17.84; in 1810 it was 13.54; in 1850 it was only 5.21. That of Louisiana in 1820 was 99.26; but in 1850 it showed a decrease to 45.32. Kentucky went from 241.2 in a steady decline, except in 1840, to 15.75 in 1850. Mississippi

⁶⁴⁰Webster's Works, Vol. V., 357.

⁶⁵⁰Statistics, XL.

fluctuated from 389.76 to 35.22 in 1850. Maryland went from 2.52 to .7, nearly a standstill by 1850. Similarly in the other States. This shows that the more northerly of the Southern States were declining more rapidly in the per cent. of increase in their slave population; and the decline over the entire country indicated that the slave population was rapidly approaching a point where the surplus would be unprofitable. This must have meant a cessation of the inter-State trade in slaves, since each plantation was reaching a point where its own increase supplied its demands. In the census of 1860 attention was called to the fact that, "While slavery in North America extended, in 1775, from and including the Canadian provinces to Florida, its northern limit has been gradually contracting, while indications clearly point to its western termini, which have doubtless been already attained." Hence, those who insisted that the Dred Scott decision threatened to make slavery universal in the United States, simply disregarded all past history and the facts that were transpiring in their very midst. They excited a popular clamor by using false arguments.

The number of free negroes in the slave States in 1850 is no less surprising than important. Since Northern writers so frequently tell us of the "kidnapping of the free negro," we would hardly expect to find one in the South. The anti-free negro laws passed by some of the Southern States, much later than similar laws in some of the Northern free States, had operated, unquestionably, to retard emancipation. But this was their result rather than to drive the freed negroes out of the respective States where such laws existed. In 1850 the free negroes in Louisiana, for example, were 17,462; in Virginia, 54,333; Maryland had 74,723, which was a greater number than were to be found in any free State. But as predicted by the Kentucky emancipation society in the early part of the century, to which I have referred, in spite of the conditions unfavorable to liberation, emancipation held steadily on its way. Natural causes, as I have herein argued, were rapidly sweeping slavery from our continent; left to itself it would have gone much more rapidly. By the time of the census of 1860 manumissions had increased in per cent. double what they were in 1850. In the introduction, volume on population, of the census of 1860, we are told that "it appears that manumissions have greatly increased in

number in Alabama, Georgia, Louisiana, Maryland, Mississippi, North Carolina, and Tennessee," while in the other States, except Florida and Delaware, the increase was not so marked, but still showed progress. (Xv.) In Delaware, as we saw above, slavery had already about disappeared; and there was no indication that it could ever be made profitable there. In Maryland there were 83,942 free blacks, showing that about one-half her slave population had been freed. All things pointed to an early disappearance of slavery; and had it been let alone, before the Civil War natural cause would have driven it to the narrow regions of the cotton States, and there competition by the cotton countries of the world would soon have made it a matter of history.

What are we to conclude? First, that the Southern people were more generous in their treatment of the negro than were the people of the Northern section; second, the proscriptive and restrictive laws concerning both slaves and free negroes—laws declared necessary, sooner or later, by the greater mass of the American people—declare the unfitness of the negro for freedom at any time during the great agitation, and the more especially his unfitness for the exercise of American citizenship. When did the time for the manumission of the Southern slaves arise? Speaking of abolition during the war, Thomas, Ohio's native historian of negro race, an ex-Union officer of the Civil War, says, "The truth is that neither the white or the black people were prepared for the abolition of slavery."⁶⁵¹ Before this he declares: "Despite its barbarities, slavery wrought a salutary formation in the negro race. It made rational men out of savage animals, and industrious serfs out of wanton idlers. It found the negro rioting in bigoted ignorance, and led him to the threshold of light and knowledge. It clothed nakedness in civilized habiliments, and taught a jungle idolater of Christ and immortality."⁶⁵² No one deplores more than I the *method*—or any method of enslavement—of initiating this work, imposed upon the slave-owners of leading the African race to "Christ and immortality," but having found it on their hands, thrust there against their protest, is Thomas correct when he says that the work was not even accomplished by the Southern people

⁶⁵¹The Am. Negro, 44.

⁶⁵²Ib., 21.

at the time of the Civil War? Speaking of the slaves as they were before and at the time of the war, Booker T. Washington, the greatest negro America has produced, declares they were "shiftless, dense in intellect," and "without ordinary intelligence."⁶³³ True as this was at the time of the Civil War, it was truer in proportion as we go back towards the first efforts of Northern origin to force emancipation in the South. If not ready for freedom in 1862, infinitely less were they ready at any time prior thereto. Lincoln and all rightly thinking Northerners declared that the slaves were not ready for freedom at any time during the first years of the nation. And Lincoln always insisted that at no time was other than gradual emancipation, and by consent of the owners, legal, right, or advisable for either side.⁶³⁴ In 1854 in one of the debates with Douglas, Lincoln said, "When Southern people tell us they are no more responsible for the origin of slavery than we are, I acknowledge the fact. When it is said that . . . it is very difficult to get rid of it in any satisfactory way, I can understand and appreciate the saying. I surely will not blame them for not doing what I should not know how to do myself. If all earthly power were given to me, I should not know what to do as to the existing institution."⁶³⁵

In common with this realization of the truth by the man of that awful hour, educated, influential negroes of to-day say that neither side was ready when the crisis came; unquestionably, then, the anti-slavery agitation, dragging with it its awful methods from the North, was a crusade of blind bigotry, or a fight in the interest of the most selfish aggrandizement.

It is not my purpose at this time to enter into a discussion of the present race problem. It would be interesting to call attention

⁶³³The Future of the Am. Negro, 11. In 1856 or '57 T. R. R. Cobb, of Georgia, sent inquiries to the governors and leading politicians of the Northern free States, asking for accurate and reliable information as to the advancement and condition of the free negroes in the respective States. The information thus obtained, in the greater majority of instances, was discouraging to emancipation. He received answers from eleven States. Briefly their information was: Conn., "not thrifty," "immoral"; N. J., "debased * * * generally indolent"; Penn., "much deteriorated by freedom"; Ind., "sent forty this year to Liberia * * * hope finally to get rid of all * * * do not intend to have another negro or mulatto come into the State"; Ill., "thrifless, idle, vicious"; N. J., "one-fourth criminals in State colored, while colored population is but one-twelfth."—Cobb, *Sketches of Slavery*, 202-3.

⁶³⁴Bell's Lincoln, 119, 217.

⁶³⁵Ib., 76.

to the fact that the proscription of the negro is as acute among Northern people to-day as ever in our history.⁶⁵⁶ It would be instructive to notice that even yet the negro is often refused employment in the North; and that in Northern shops white men generally refuse to work by his side.⁶⁵⁷ In the words of the great Southern educator, "The time is not far distant when the world will begin to appreciate the real character of the burden that was imposed upon the South in giving the franchise to four millions of ignorant and impoverished ex-slaves. No people was ever before given such a problem to solve. History has blazed no path through the wilderness that could be followed."⁶⁵⁸ With so few negroes that there was nothing to fear, the North held back; but she thrust the problem upon the South, where "freemen were permitted to vote two years in advance of the time when most Northern negroes were granted suffrage," as Thomas says.⁶⁵⁹ Gen. S. C. Armstrong was born of missionary parents in the Hawaiian Islands; his father was a Pennsylvanian, and his mother a native of Massachusetts. He did valiant service for the Union in the Civil War, and perhaps no dozen Northern men have done as much for the uplifting of the negro since the war as he. I would be glad to call him to the witness stand and let him tell, for the benefit of those not familiar with his words, that from the very time Lee's soldiers were disbanded, both whites and blacks of the South were "willing to do the fair thing."⁶⁶⁰ Then I would call again Booker T. Washington and have him tell, cumulative to this, as we hear him in his recent book, that, "There is almost no prejudice against the negroes in the South in matters of business, so far as the native whites are concerned; . . . But too often when the white mechanic or factory operative from the North gets a hold, the trades union soon follows, and the negro is crowded to the wall."⁶⁶¹ No one who did not spend in the South the first twenty-five years after the war can have a correct conception of the impoverished condition left to those who survived the war or who were soon to be born. Yet by

⁶⁵⁶Henry M. Field (of Mass), D. D., *Bright Skies and Dark Shadows*, 152.

⁶⁵⁷Booker T. Washington, *The Future of the American Negro*, 75, 76, 175.

⁶⁵⁸*Ib.*, 146.

⁶⁵⁹*The Am. Negro*, 306.

⁶⁶⁰*Twenty-two Years' Work of Hampton Inst. (for negroes and Indians)*, Virginia, 3.

⁶⁶¹*The Future of the Am. Negro*, 78-9.

1890 there were "16,000 negro free schools of the South—nearly 2,000 in Virginia alone—costing the ex-slave states nearly four millions of dollars a year in taxation."⁶⁰² Of course, as may be seen from the various reports of education, the number of schools and their support by taxation or municipal aid, is now greatly in excess of this; but the showing of 1890 is the more remarkable because reached during the period of greatest embarrassment, and during the time when not only the negro contributed little to the expenses of taxation, but when as a productive factor he was of least force. But all these more recent phases of our history, I must dismiss to confine what I have to say to the ante-bellum period.

⁶⁰²Twenty-two Years of Hampton Institute, 9.

XIII.

UNIVERSAL HISTORY OF SLAVERY.

DISREGARD OF ITS LESSONS BY NORTHERN ABOLITIONISTS.

It should not be forgotten that the Southern people realized that the wrongs they were suffering were not only without a precedent in the world's history, but that that history refuted every argument of the abolitionist; he was left without legal or Constitutional authority at home and without justification in either ancient or modern history. The slavery history of the civilized world shows that legislation cannot make civilization,—that conscientious moral support must precede legislative decrees,—that legislation cannot anticipate what would otherwise come, except greater injury be done in the effort than would have resulted without it. Slavery has existed at certain political or moral stages of all peoples. [In their own good time each people saw it undesirable longer to continue the institution of slavery, either for purely economic reasons or because of an enlightened and Christianized conscience, or the two combined, it matters not which or how; the fact remains that the same causes were doing their work in America—unaided by Northern anti-slavery people.

During the whole of the Anglo-Saxon period in England down as late as 1066, the sale and purchase of slaves publicly prevailed. The English historian, John Lingard, D. D., tells us that, "These unhappy men were sold like cattle in the market. . . . To the importation of foreign slaves no impediment had ever been opposed; the export of native slaves was forbidden under severe penalties. But habit and the pursuit of gain had taught the Northumbrians to bid defiance to all efforts of the legislature. Like the savages of Africa, they are said to have carried off, not only their own countrymen, but even their friends and relatives, and to have sold them as slaves in the ports of the continent. . . . Their agents traveled into all parts of the county; they were instructed to give the highest prices for females in a state of pregnancy. . . . This obstinacy

yielded, however, not alone to the severity of the magistrates, but to the zeal of Wulstan, Bishop of Worcester." For several years successively Wulstan preached on Sunday against this traffic, "until at last the merchants were convinced by his reasons," so the historian tells us, and renounced forever the trade.⁶⁰³ No injury was done the slaveholders; no efforts were made to make war upon or to massacre them; yet one of the most debasing systems of slavery gave way forever without bloodshed and without jeopardizing the peace of a nation.

It remained for the English, the sons of the sturdy Anglo-Saxons, to restore the traffic, but in a much milder form, horrible even as it was. Not only was the traffic restored, but in her dependencies English subjects held slaves until 1833. England's first attempt to legislate the horrors of the slave trade out of existence was really in advance of the day. The world was not ready for the step. More harm was done than good. All any nation can do properly is to do what is productive of most good and least harm. As Mr. Archibald Alison, F. R. S. E., the distinguished English historian, and others tell us, the opposition to this first English anti-slavery law, enacted June 11, 1806, pointed out that the world was not yet ready for the stroke; and that the bill would increase the trade and double the horrors of the slave field. Mr. Alison very clearly shows that such was the result. He says its effects were in the "highest degree deplorable." He then adds, "Never was a more striking example than this subject has afforded in its latter stages, of the important truth that mere purity of intention is not sufficient in legislative measures, and that, unless human designs are carried into execution with the requisite degree of foresight and wisdom, they often become the source of the most heart-rending and irremediable calamities."⁶⁰⁴ I cannot now enter into an examination of why this act of the English Parliament had so disastrous an effect more than to observe again that the world was not yet ready for the step, and that the withdrawal of the spacious English vessels from the trade gave to Spaniards an opportunity to convert their smaller crafts into the most inhuman of slavers.

⁶⁰³Hist. Eng. (London, 1875), Vol. I., 212; E. A. Freeman, Oxford, M. A., Hon. D. C. L., LL.D., *The Reign of Wm. Rufus*, Vol. I., 310; Hallam, *Middle Ages*, Vol. III., 299, n. 5.

⁶⁰⁴Hist. Europe, Vol. II., 498.

By 1833 the public opinion of England was upon a different footing. Many of the English slave-owners lived in England, while their slaves lived away under overseers and in some of the English islands; this separation of the master from his slaves led to far heavier yokes than those imposed in the Southern States of the United States. The English conscience had had time to expand unopposed, while the Englishman's purse was not robbed. Then, too, by that time the economic conditions of the English dependencies, and for that matter those of the most of the world, demanded a change of the labor system. Charles Knight, also an English authority, tells us that "every estate was encumbered and every planter embarrassed"—speaking of the English slaveholders of this period.⁶⁶⁵ To the same effect Goldwin Smith, D. C. L., says the "declining profits of the planter"⁶⁶⁶ was rapidly forcing him to bankruptcy. These conditions had produced a change of sentiment generally, and accordingly such force of public opinion was brought to bear upon the government that Parliament, 1833, passed an act of general emancipation for the 800,000 negro slaves within the British empire; "and twenty millions of pound sterling were appropriated to compensate the owners."⁶⁶⁷

It is a striking commentary on the moral attitude of the abolition North that compensation to Southern slave-owners was spurned by the North with the most unbrotherly contempt—not until the war was in open outbreak was there any material effort in this direction. Mr. Rhodes has said that the South would not have received compensation. This assertion has not a single fact of history to back it; the South would gladly have accepted emancipation if bankruptcy and other after-results had not stared her in the face.

While the English Government did all it reasonably could to help its declining planters out of an embarrassing situation, yet the measure found no little opposition, because it was argued by the planter that, gradual though emancipation was to be, he, nevertheless, would be bankrupt because even the proposed change in the labor system was too sudden. For great numbers this proved too true. Upon the planters of Jamaica, and generally of the sugar-

⁶⁶⁵Hist. of England (London, 1865), Vol. VIII., 331.

⁶⁶⁶The United Kingdom, Vol. II., 370.

⁶⁶⁷Montgomery, The Leading Facts of English History. 354.

cane growers, in Knight's own words, the Emancipation Act "came like a destroying blight."⁶⁶⁸ J. Smith Homans, some time corresponding secretary of the Chamber of Commerce, State of New York, writing in Harper Brothers' *Commerce and Commercial Navigation* in 1858, upon the effects of the English act in Jamaica, says, "Hitherto its history, since emancipation, has been discouraging to the friends of liberty. The negro on whom the cultivation of the island depends has gradually retired from labor, and retrograded in the social scale. . . . It is the natural result of removing all restraint from a people low in civilization. . . . Already the enormous depreciation of property has caused the ruin of so many, that the name of Jamaica proprietor . . . is now associated with poverty and distress."⁶⁶⁹ The act killed the trade of the British West India Islands, and for many years thereafter it remained comparatively stationary.⁶⁷⁰ Cuba and Brazil took advantage of this situation. They increased their slave forces, and worked their slaves so hard to supply the shortage in the sugar supply which the decline of production on English plantations had produced, that their slaves were "worn down by their cruel taskmasters to the grave by a lingering process" which terminated the slave's life in about seven years.⁶⁷¹

The opposition to the Parliamentary Act of 1833 prophesied these evils, and argued that while slavery was an economic evil, that yet it was one which would disappear from English soil by virtue of its self-limitation, and that, too, with less bad effect to both slave and master than those effects which would, and that actually did, follow the law. They pointed to the disappearance of the most galling form of slavery from among the Anglo-Saxons. They pointed to the fact that slavery wore itself out with the "happiest effects in both Spain and Portugal."⁶⁷² Europe furnished a strong example. "The Germans, in their primitive settlement," had slaves. "When they invaded the Roman Empire they found the same conditions established in all its provinces."⁶⁷³ "As society ad-

⁶⁶⁸English Hist., Vol. VIII., 331.

⁶⁶⁹Harper Brothers, New York, Ib., 1123.

⁶⁷⁰Allison, Hist. Europe, Vol. II., 499, n. —.

⁶⁷¹Ib., 498; Turnbull, Cuba, 279.

⁶⁷²Ib., 498.

⁶⁷³Hallam, Middle Ages, 196.

vanced in Europe the manumission of slaves became more frequent."⁶⁷⁴ Why? As on English plantations the planters found it unprofitable as the intellectual and industrial advance of the world drove steadily on its course, as in America slavery yearly grew an economic burden, so, Hallam tells us, it was in Europe, where "in peace the industry of free laborers must have been found more productive and better directed. Gradually their number decreased, until by the middle of the fifteenth century in Italy slaves no longer existed."⁶⁷⁵ In some German communities the greater part of the slave-peasants acquired their freedom before the middle of the thirteenth century. While in other parts of Germany and Eastern Europe they remained in an easy "sort of villanage" until later days.

Some years after the disappearance of the shameful slavery which had existed in the days of the good Wulstan, its institution, as well as the slave trade, had been re-established in England proper no less securely than in her several dependencies. Concerning this latter slavery in England proper, Thomas M. Cooley, LL. D., as is well known, some time a Justice of the Supreme Court of Michigan, says, "It would be idle to attempt to follow the imperceptible steps by which involuntary servitude at length came to an end in England. It was never abolished by statute; and the time when slavery ceased altogether cannot be accurately determined. The causes were at work silently for centuries . . . they were not the subject of agitation or controversy."⁶⁷⁶ From earliest times up to 1771 masters brought negro slaves with them to England, and "removed them again without question," adds Cooley.⁶⁷⁷ In 1771 Lord Mansfield "with evident reluctance" delivered the opinion in what is known as the *Sommerset Case*, in which he held that "to bring a slave into England was to emancipate him." Of the practice prior to this decision Lord Stowell said, "The personal traffic in slaves resident in England had been as public and as authorized in London as in any of our West India Islands. They were sold on exchange, and other places of public resort, by parties themselves resident in London, and with as little reserve as they would have

⁶⁷⁴Ib., 199.

⁶⁷⁵Ib., 200.

⁶⁷⁶Constitutional Limitations, 360; see also Bancroft's Hist. United States, Vol. I., ch. 5.

⁶⁷⁷Ib., 362.

been in any of our West India possessions. Such a state of things continued without impeachment from a very early period up to the end of the last century"—meaning up to the *Sommerset Case*.⁶⁷⁸ Slavery had also disappeared from Scotland in the early part of the nineteenth century. Sweden prohibited the slave traffic in 1813, Holland in 1814; Portugal early restricted this trade; not far from the same time France entered the field with gradual restrictions; and Brazil followed in 1825, though slavery remained with her until since the close of the Civil War, up to which time her prohibitive laws were violated with the most audacious impunity by slave dealers and ship-owners from the Northern States of the United States.

Whatever the causes which wrought these salutary and humane changes, they had nowhere produced an "irrepressible conflict" whose devastating path is marked by an innumerable host of white and silent sentries that keep relentless vigil over the entombed bodies of multitudes of slaughtered human sacrifices, like that mournful army which must forever encamp throughout our Southland, and whose chiseled challenges must continue to halt us at the graves of gone yet never-to-be-forgotten loved ones. Of the causes which destroyed the slavery of older countries it is interesting to note that Macaulay⁶⁷⁹ says the chief thing was the Christian religion; Mackintosh⁶⁸⁰ attributed the causes mainly to the "humane spirit which breathes through the morality of the Gospel." Hume⁶⁸¹ finds the cause in the fact that the barons were convinced that the returns from their lands would be increased by the use of free labor; which is substantially to declare that under advanced economic conditions slave labor in competition with free labor must soon bring bankruptcy to the slaveholder.

There was not only no reason why slavery in America should not pass from our soil in obedience to the same laws that had driven it from other—*almost all other*—countries, but it had gone from the North; it was slowly yet surely dying from the Northwest; it was already unprofitable in the upper South;⁶⁸² and Carr tells us that

⁶⁷⁸Ib., 362, n. 3.

⁶⁷⁹Hist. Eng., c. 1.

⁶⁸⁰Hist. Eng., c. 4.

⁶⁸¹Hist. Eng., c. 23.

⁶⁸²Sir Geo. Campbell, *M. P., White and Black* (N. Y., 1879), 140.

in 1828 Missouri was credibly reported as on the verge of passing an emancipation law. Yet in utter disregard of the teachings of the past, Northern abolitionists pursued such a course as checked the Missouri movement;⁶⁸⁸ and not this only, but such a course with reference to the South in general as had the result which I have more than once mentioned. This mad attack of an impatient and self-serving Northern faction—which became the cause of the struggle which followed,—was inexcusable, I feel I may again repeat, because in its incipency it had neither moral nor political foundation; in its adolescence it had become an insane fanaticism as dangerous to republican institutions as anarchy. That faction in the North who encouraged or aided the underground railroad; that element who aided, encouraged, or helped to carry on the Kansas rebellion; those who refused to desist their agitation in obedience to the rulings of the Supreme Court of the Union; the numbers who discarded the Constitution and nullified the laws of Congress passed pursuant thereto; they who attempted what must, unchecked, have led to wholesale massacre of Southern whites—these and the combined efforts of all these produced Southern secession, and thus led to war. That fair-minded, far-sighted number in the North who neither aided nor encouraged any one or more of these, is free from the blood-guilt of that unpardonable struggle. Neither these latter nor their progeny will raise a cry of protest when, as one day will be done, an unprejudiced world will inscribe over the tomb of the pre-bellum North: “Thy brother’s blood crieth from the earth.”

Nor will the apologist for the advocates of any of these causes succeed in justifying or excusing them until he proves that the Southern people were exempt from the universal law of progress. That onward sweep to higher social and political life,—be its impetus Christianity, evolution, economic powers, or what it may,—the historian need not stop to inquire,—was most surely hurrying African slavery from the world; *and it was doing so without war*. To argue that the Southern people, in their position with reference to slavery, were endeavoring to reverse nature; to insist that their “peculiar civilization” “broke faith with the new order” for no higher reason than that which a Chinaman can assign for his

⁶⁸⁸Carr, Missouri, 175-6.

dogged conservatism, merely "to keep faith with the old,"⁶⁸⁴ is to ignore the chronology of our history, and to deny the "fundamental principle of economic activity," and to deny that "the economic nature of man is something absolute, inseparable from the very character of man."⁶⁸⁵ The South was no more averse to prosperity than the North; the question between the two sections was whether the acts of which the South complained were sufficient to combat, rather than aid the natural, inevitable development of the American people, and to what extent they imperiled peace and invited ruin to the Southland.

⁶⁸⁴Brown, *Harvard Hist. Lectures, The Lower South*, 112.

⁶⁸⁵Carl Bucher (*Univ. Leipzig*), *Industrial Evolution*, 1, 2.

XIV.

CONCLUSIVE EVIDENCES OF IMMINENT EVIL.

CONNECTION BETWEEN LINCOLN'S ELECTION AND SECESSION—JOHN
BROWN REPRESENTATIVE OF A LARGE AND DANGEROUS FACTION.

During the turmoil and bitter criminations and re-criminations which preceded the South's exercise of that right to which the larger part of the nation had clung since the ratification of the Constitution, now and then some one would accuse her of a desire to break away from the Union merely for the sake of setting up an independent republic. No sane man then or now sincerely believed or believes such to have been true. The South asserted that only in the last resort and for imminent causes could or should the Union be *declared dissolved*. When the machinery of the Government fell into hands where it would be used, so far as could be seen, for the hopeless, continued subversion of the Government itself; and where its use or failure to be used properly would produce evils, by no means ephemeral, either directly or indirectly, to prevent which the States had formed a closer Union, then there was left to the Southern States but two possible courses: ignoble endurance, or a resort to armed force. A resort to armed force offered also two alternatives: an effort to restore to their normal conditions the functions of the Government; or, a *formal* declaration that existing conditions and imminent evils had dissolved the Union, accompanied by a notification that the suffering members preferred to remain apart rather than wage aggressive war for correction of the subversion. The responsibilities for war are of the gravest character; a formal declaration of secession was not a declaration of war; if war should come, a declaration by the Southern States that the existing conditions rendered them no longer under obligations to the Government as administered by the abolitionists, left war's sickening responsibilities most certainly not upon the South. Numerous friends had the South in the Northern States; and these

generally, together with many patriotic Southerners, halted on the verge of action in hope that a remedy less severe than the withdrawal of allegiance might be found. These were not in doubt as to the right or justification of secession based upon the alleged causes; there was no question in the minds of the Southern people as to the legal or moral right of the action under the existing conditions. With some there was merely a difference of opinion as to how the evils might be best averted. But events hastened; political intriguers and men insane from the intoxication of agitation drew across the sun of national happiness a sable curtain: on it was emblazoned the torch of the incendiary, and through its meshes percolated the innocent blood of assassinated victims. A majority in the South chose what they deemed the less of two evils,—a choice none the less heroic for want of final success. True to the fundamental doctrine of proper majority rule, the voice of the Southern majority became the voice of the South.

Why this action of the South followed so closely upon the election of Mr. Lincoln, is not always clearly understood. In his election, why did the South feel that her patience had reached its limit, and that further delay would be suicidal? Why did she feel that a declaration of her future position was *then* and there justifiable,—and not merely justifiable, but *required*?

(1) The rebellion in Kansas, backed as we have seen by the North, had shown a determination on the part of Northern people to pursue and carry out their view by force of arms. (2) The increase of the operations of the underground slave-stealing system demonstrated a growing Northern faction bent on inciting the negro to discontent and violence. (3) The enactment of laws by ten Northern States, the purpose and effect of which were to destroy and combat the fugitive slave laws passed by Congress, demonstrated a determination on their part to nullify the Federal Constitution and to set at defiance the laws of Congress; more, these Northern anti-Federal laws destroyed the binding force of the Federal Constitution. The Southern people were by no means alone in this contention. In 1822, President John Quincy Adams laid down this rule: "But let us suppose the case of legislative acts of one or more States of this Union are passed, conflicting with acts of Congress, and commanding the resistance of their citizens

against them, and what else can be the result but war—civil war? And is not that, *de facto*, a dissolution of the Union, so far as the resisting States are concerned?"⁶⁸⁶ Again he said, "I therefore hold it a principle, without exception, that, whenever the constituted authority of a State authorizes resistance to any act of Congress, or pronounces it unconstitutional, they do thereby declare themselves and their State *quoad hoc* out of the pale of the Union."⁶⁸⁷ When it is remembered that in some instances the anti-fugitive slave-law regulations which they had put upon the statute books of the respective States, made a United States officer in the execution of the Federal law liable to incarceration in a State jail, no one can doubt that the so-called "liberty laws" met the conditions which Adams thus laid down. (4) Thomas Jefferson's view of emancipation was that "It is still in our power to direct the process of emancipation and deportation peaceably, and in such slow degrees, as that the evil will wear off insensibly." Quoting this view of Jefferson, Mr. Lincoln had repeatedly declared: "Mr. Jefferson did not mean to say, nor do I, that the power of emancipation is in the Federal government. He spoke of Virginia, and, as to the power of emancipation, I speak of the slave-holding states only." The members of Lincoln's party in Congress had gone even further: they had declared the eternal, irrevocable perpetuation of the existing slavery. In his inaugural address Mr. Lincoln said, "I understand a proposed amendment to the Constitution—which amendment, however, I have not seen—has passed Congress, to the effect that the Federal Government shall never interfere with the domestic institutions of the slave States, including that of persons held to service. To avoid misconstruction of what I have said, I depart from my purpose not to speak of particular amendments so far as to say that, holding such a provision to now be implied constitutional law, I have no objection to its being made express and irrevocable."⁶⁸⁸ The existing slavery was to be "irrevocably" left, and with it was also to be left the so-called liberty laws of the various Northern States; neither he as the incoming President nor his party in Congress intimated that the South

⁶⁸⁶Henry Adams, *New England Federalism*, 53.

⁶⁸⁷*Ib.*, 58.

⁶⁸⁸Bell's *Lincoln*, 198.

should have even an effort at better protection than the past had afforded. Just before the above statement he had said, "The fugitive slave clause of the Constitution, and the law for the suppression of the foreign slave trade, are each as well enforced, perhaps, as any law can ever be in a community where the moral sense of the people imperfectly supports the law itself." In the same address he declared that "no right plainly written in the Constitution" had been denied the Southern people. He and his party assumed the functions of government, declaring that complaints of the Southern people were "altogether artificial" and without "foundation in fact";⁸⁸⁹ and that there was no "reasonable cause for the apprehension" that the accession of a "Republican administration would endanger their property and their peace and personal security."⁸⁹⁰ Though he repeatedly declared that the fugitive slave law of 1850 was Constitutional,—a right plainly written in the Constitution,—yet there could be no mistake that he meant to make no effort to deal with even those States which had passed laws making it criminal to obey the Federal law. These—the real menaces to American freedom—were to remain,—and thus receive his moral approval! At the very time he uttered these words he had knowledge that ten Northern States had passed laws with no other object than to destroy the national fugitive slave laws: a more powerful denial of a Constitutional right, the abrogation of the exercise of a "right fixed in the Constitution," could not be found short of open, actual war. He knew that the very backbone of his party in those States fostered a public sentiment which often rendered it impossible to enforce Congressional laws resting upon provisions which he admitted were "plainly written in the Constitution." He had the history of the famous Burns fugitive slave case before him; he knew that the manifestations of abolition feeling which this case excited were typical and representative of that cherished by a large, wealthy, and powerful faction. He was fully aware that Northern rebellion against these Congressional laws hounded those who attempted to execute them, just as was done in the case of the probate judge and United States commissioner who tried Burns. So persistently did the abolitionists besiege the legislature, that the

⁸⁸⁹Bell's Letters and Speeches of Lincoln, 184.

⁸⁹⁰Ib., 188.

judge was finally driven from his office, although it is admitted that "he had not dealt with this case dishonorably."⁹⁹¹ This persecution of admittedly honorable men, and this rebellion against laws resting upon a plain provision of the Constitution, the provision itself no less than the entire Constitution as well as the laws pursuant thereto, sustained by a majority of over two millions of the sovereign voters of the Union,—were notorious facts. Lincoln had before him that movement which had brought to its aid thousands of improved rifles, cannon,—organized and armed sedition against local government and rebellion against the Federal Government,—theft and murder until Kansas became a stench; he knew that the avowed purpose of this movement was to interfere with the legal institutions and internal affairs of the existing Southern States,—an attempt to throttle the control of the *bona fide* citizens over an institution which both he and his party declared they were willing to see "made express and irrevocable." By no means did these reach the end. In conclusion, I submit some facts which I maintain were conclusive evidence that the violations of these various admitted rights were rapidly gathering to their support the assassin as well as open and perhaps more honorable war. When the President and his Congressional majority refused to enforce all laws of the land, or sat with folded hands under a plea of inability, they not only allowed the dangers to go unchecked, but thus accelerated what was already imminent.

(5) Judging by the position which Lincoln and his party had assumed with reference to Kansas questions and the Dred Scott decision, it was a legitimate and reasonable conclusion that the fight they were making was not to ameliorate the condition of the negro, but one which would continue to be prosecuted for ends entirely subversive of and regardless of existing laws, judicial decisions, or constitutions. Going back a few weeks to the platform upon which Lincoln was elected, we find this same party, then grown strong, reasserting the old balance of power theory of government—a theory which had fostered Northern opposition to the acquisition of all territory west of the Mississippi river—and with this doctrine re-affirming the legal status of slavery thus:

⁹⁹¹Schouler, Hist. U. S., Vol. V., 295. Mr. Schouler tells us that Burns was kindly treated by his master, and that shortly after this famous trial his freedom was purchased and he returned to the North. *Ib.*, Note.

“Resolved, That the maintenance inviolate of the rights of the States, and especially the right of each State to order and control its own domestic institutions according to its own judgment exclusively, is essential to that balance of power on which the perfection and endurance of our political fabric depends; and we denounce the lawless invasion by armed force of the soil of any State or Territory, no matter under what pretext, as among the gravest of crimes.”¹⁸⁶²

To read this without connecting it with existing conditions, would seem to show that the Southern States had every assurance needed. The legality of their slavery was admitted; and, as I have said, afterward the same party in Congress declared their willingness to perpetuate it; the State's exclusive right to control it was admitted; but these stopped short of the trouble. The South was flooded with insurrectionary literature, her internal peace had been stolen by interference outside her borders; each year hundreds of thousands of dollars—not theoretically, but literally—were stolen by the increasing underground railroad; and all this had been and continued to be fostered, encouraged, and protected by the admittedly unconstitutional laws of the free States. All that this declaration did was to state the well-known legal status of slavery, and then not only to leave unchecked the insane Northern wave which had broken in bloody billows over the homes of Southern men in Kansas, but by force of its very narrowness it gave accelerated impetus to all classes and kinds of opposition to slavery—with results to which I shall soon call attention in conclusion.

We have seen how events had placed Kansas at the feet of the National Government. Questions affecting the rights of the States, questions involving the right of emigration to United States territory with this property which was admitted to exist legally, had arisen. These questions must be decided some way, by some constituted and recognized authority. Our fathers had prepared for such an emergency, and for this purpose the Supreme Court of the United States had been established. The greatest of Northern Senators, Daniel Webster, of Massachusetts, but ten years before Lincoln's partisan contention, said, “No higher judicial tribunal exists than the Supreme Court of the United States. . . . It is the

¹⁸⁶²T. H. McKee, *Platforms of All Parties*, 68.

expounder of fundamental principles of government; it is the appointed umpire on questions of the profoundest interest and most enduring consequences between conflicting sovereignties. The American people, if they are wise, will ever cherish it as their most valued possession, since its duration will be co-existent with that of the Constitution, of which it is the sole interpreter."⁶⁹³ And again he said, "The judges [of the Supreme Court] are called upon to sit in judgment upon the acts of independent States; they control the will of sovereignties; they are liable to be exposed, therefore, to the resentment of wounded sovereign pride; and from the very nature of our system, they are sometimes called on, also, to decide whether Congress has not exceeded its constitutional limits."⁶⁹⁴ This final arbiter of disputes between the States must decide in favor of the one side or the other: it had decided in favor of the Southern contention; and this contention and decision had been and continued to be backed by a majority of the whole voting freemen of America. Here was the arbiter established by the sovereign power in the nation speaking, and the sovereign voice of the people themselves answered back in approval. If our government was anything whatever it was republican—democratic. When the minority refused submission, that position was none other than revolutionary, was nothing less than incipient rebellion. This was exactly what Lincoln and his party did; and that he and his party were a minority of both the whole people and of the whole number of voters in the Union or in the States collectively, there can be no question,—and this was true even down to and after the withdrawal of the South. While the other parties avowed they would "abide by the decisions of the Supreme Court of the United States on questions of constitutional law," Lincoln and his party plainly said that they would keep up the agitation until the Supreme Court decided as they dictated.

In Aug., 1856, and while the country anxiously awaited the Dred Scott decision, Lincoln said, "The Supreme Court of the United States is the tribunal to decide such a question, and we will submit to its decisions; and if you do also, there will be an end of the matter. Will you? If not, who are the disunionists—you or

⁶⁹³Webster's Works, Vol. II., 402-3.

⁶⁹⁴Ib., Vol. III., 163.

we?"⁶⁸⁸ Most certainly he had in mind a political, non-agitative submission; no fair construction can get anything else out of his attitude. The country was bleeding from the restless tossing engendered by the questions before the court in the Dred Scott case. The court applied the remedy. It was unpalatable to the Lincoln people; no time was lost in breaking former pledges. Hear him Oct. 1, 1858: "We oppose the Dred Scott decision in a certain way . . . not . . . in any violent way to disturb the rights of property thus settled; but we oppose that decision as a political rule." "The President and Congress" were "not to be bound by it"; and more, "we propose so resisting it as to have a reversal of it if we can, and a new judicial rule established upon the subject."⁶⁸⁹ It was plain to see where this would lead. If it were their right to refuse to submit until their views prevailed, it would have been equally the right of the opposition to do the same thing, and so *ad infinitum*. This position destroyed the very foundation of the American Government. (See *Notes* for Northern action on Dred Scott case.)

Ignoring the fact that nature, as I have pointed out, had decreed that slavery could never become national, or even to any considerable extent approximately so, in area, Lincoln and his party excited the populace with the unfounded alarm that the Dred Scott decision was one of a series that would soon establish slavery in the then free States. This was clearly a political subterfuge by which it was hoped the Supreme Court would be forced to yield to popular clamor until in the reversal of the Dred Scott decision it should be decided that Congress could not legalize slavery in a Territory nor permit the people thereof themselves to do so. Such a contention meant that all future Territories should be settled largely by Northern men and their local polity shaped in accord with the generally prevailing politics of New England; and the groundless reason urged before the people served to give the unthinking anti-slavery populace moral support in the belief that slavery was to be fought at "all hazards" and with any weapon.

A true Southerner would be as unwilling to speak harshly of President Lincoln as of any honored and distinguished man. Lincoln was not only born south of Mason and Dixon line, but his

⁶⁸⁸Bell's Lincoln, 93.

⁶⁸⁹Ib., 128-9.

grandfather was a Virginian. His earlier ancestors were Quakers who came originally from Europe to Berks county, Pennsylvania.⁶⁹⁷ Of his sterling manhood and unfeigned Southern chivalry, the Southern people have a sincere appreciation. We recognize his honesty of purpose. Our recognition of his rugged manhood, however, does not blind us to the sophistry of his logic and the consequent unsoundness of his conclusions; nor cause us to lose sight of the unyielding and fanatical tenacity with which he clung to those conclusions—thus exhibiting all the peculiar, erratic, characteristics of his Quaker ancestry. In reply to Judge Stephen A. Douglas, Mr. Lincoln thus stated the contention and position upon which he went into power:

“The judge alludes very often in the course of his remarks to the exclusive right which the States have to decide the whole thing for themselves. I agree with him very readily that the different States have that right. He is but fighting a man of straw when he assumes that I am contending against the right of the States to do as they please about it. Our controversy with him is in regard to the new Territories. We agree that when the States come in as States they have the right and the power to do as they please. We have no power as citizens of the free States, or in our federal capacity as members of the Federal Union through the General Government, to disturb slavery in the States where it exists. We profess constantly that we have no more inclination than belief in the power of the government to disturb it; yet we are driven constantly to defend ourselves from the assumption that we are warring upon the rights of the States. What I insist upon is, that the new Territories shall be kept free from it while in the territorial condition. Judge Douglas assumes that we have no interest in them—that we have no right whatever to interfere. I think we have some interest. I think that as white men we have. Do we not wish for an outlet for our surplus population, if I may so express myself? Do we not feel an interest in getting to that outlet with such institutions as we would like to have prevail there? . . . I am in favor of our new Territories being in such a condition that white men may find a home—may find some spot where they can better their condition—where they can settle upon new soil and better their condi-

⁶⁹⁷Nicolay & Hoy's Lincoln's Works, 596.

tion in life. I am in favor of this not merely (I must say it here as I have elsewhere) for our own people who are born among us, but an outlet for free white people everywhere, the world over."⁸⁸⁸

That was exactly what the Southern people alleged to be unfair, and the position of which they complained. In the Dred Scott case the Supreme Court, the arbiter of last resort, had said jurisdiction of slavery should and did rest with the territorial government just as it did, as Lincoln and his party admitted, with the State governments. Every Territory in the Union up to 1860—North and South—had exercised jurisdiction over and at will legalized or rejected slavery. To keep slaveholders and their property away until Statehood, meant, of course, to give the anti-negro party a clear field. It simply discriminated against Southern people and hemmed them within narrow and old existing borders, while it gave an "outlet for free white people everywhere, the world over,"—provided they were not Southern slaveholders. In effect, this was what the Supreme Court said was contrary to the Constitution and out of harmony with the spirit of our government; and this judicial opinion was reflected by a majority in Congress for ten years, and sanctioned by a majority of nearly one million popular votes in the election of 1860. Webster, whom the North called the great Defender because of his watchfulness of the Constitution, said:

"We must take the meaning of the Constitution as it has been solemnly fixed,—fixed by practice, fixed by successive acts of Congress, fixed by solemn judicial decision,—or we never shall have any settled meaning at all. It is absurd to say, that no precedent, no practice, no judicial decision, no assent of successive legislators, nor all these together, can fix the meaning of an article in the fundamental law."⁸⁸⁹

I have given a brief outline of slave legislation in the several Territories in order to show that the meaning of the Constitution concerning Territorial as well as State jurisdiction had been "fixed by practice, fixed by successive acts of Congress," fixed "by assent of successive legislators," and finally "fixed by solemn judicial decision"; all these together had united to determine the fundamental law.

⁸⁸⁸Ib., 507-8.

⁸⁸⁹Works (Boston, 1860), Vol. II., 164.

Nebraska Territory was created at the same time as was Kansas. Popular sovereignty—the right of the people of the Territory to legalize or reject slavery, and determine all purely local interests, as their majority decreed—pertained to Nebraska just as it did to Kansas. Nebraska's Territorial government was organized and peaceably at work months before that of Kansas. Her prairies were as rich and her resources as varied as were those of Kansas. There was ample room there for "free whites," and that, too, where the history of the Northwest had taught that slavery could not survive. If Lincoln's party were sincere in their profession of a desire for a home for free white men, they should have gone to Nebraska! That they rushed past it and infested Kansas with armed men; that even before the passage of the Kansas-Nebraska bill money and organizations were ready to crowd New Englanders into Kansas borders, will ever remain unimpeachable evidence that it was a political move in the interest of Northern power,—and a movement entirely devoid of any philanthropic outlook for the Southern slave,—not even the free negro or mulatto was to invade this new centre of American "freedom." The avowed purpose of Lincoln and his party was to seek a home and an outlet for themselves—for "free white men" only; note his words—the negro was to be left in his bondage, while the excited scramble for the Territories, fed upon abuse of an institution which they said should be made irrevocable, was left to go on unmolested to fire the brain of the white insurrectionists, and to engender repetitions of the Kansas scenes.

We are not left to the words alone of Mr. Lincoln. In the platform of the party which nominated and elected him, they further declared, section one, that "all men are created equal." In section eleven of this same platform, they declared, "That Kansas should of right be immediately admitted a State under the Constitution recently formed and adopted by her people and accepted by the House of Representatives." Just before this they branded the work of the authorized Kansas legislature as the "infamous Lecompton Constitution." Why did they stigmatize this Constitution as "infamous?" For no other reason than that it refused to recognize the legal *equality* of the negro with the white man. The Southern people said that the inequality of the negro must be recognized to a certain extent for the protection of the higher class. What were

the provisions of that Constitution which that party, which parades as the champion both of freedom and as the liberator of the slave, thus in its platform so unequivocally endorsed? The Constitution to which they referred was that one claimed to have been ratified by the people of Kansas October 4, 1859, and accepted by the House of Representatives April 12, 1860,⁷⁰⁰ just a short time before the Republican convention. This Constitution declared the right of governments to *create* inequalities in that it created an inequality—made a discrimination—*against the negro and in favor of the abolitionists*. It gave the elective franchise to “white male persons” only, and such only could hold office.⁷⁰¹ Thus again, as in the Republican-abolition endorsed Topeka constitution, when it came to questions between himself and the negro, the Northern abolitionist drew back; and just as did Massachusetts and other older States of New England, just as did those who enforced the cruel expulsion laws of New England made Ohio, just as did the Northern element in the newer northwest—the great Oregon Territory, a social and political inequality was declared in favor of the white man. The want of fairness did not stop at this position; even much more than a want of fairness was unmistakable. This Kansas constitution, which this party in its Chicago declaration of principles thus endorsed, was no more legal than the Topeka constitution—not a particle more than if it had been made in Germany and ratified by German citizens. By the law of Congress, approved May 4, 1858, which was known as the English bill, the Lecompton or authorized constitution was declared republican and approved, and under it Kansas was admitted a State, without further act of Congress whatever, on the simple condition that this “ordinance formed at Lecompton” be re-submitted to a vote of the people, with which were some non-party conditions relating to public lands. The law provided that if by vote of the citizens of Kansas, or their failure to vote, this proposition was rejected, then, at any time thereafter, it empowered the people to hold proper elections at which they should choose delegates to a constitutional convention, “whenever, and not before, it is ascertained by a census duly and legally taken that the population of the said Territory

⁷⁰⁰Appendix Cong. Globe, 1 sess., 36 Cong., pt. 2, 1669.

⁷⁰¹U. S. Charts. and Consts., 636.

equals or exceeds the ratio of representation required for a member of the House of Representatives of the Congress of the United States; and whenever thereafter such delegates shall assemble in convention, they shall first determine by a vote whether it is the wish of the people of the proposed state to be admitted into the Union at that time."⁷⁰² It was admitted that neither had this census thus required been taken, nor was the population thus required in the Territory either at the time of the formation of this last constitution or at the time it was being endorsed by the Republican convention,—nor had the law been repealed. To admit Kansas under this Constitution was to do so in defiance of existing Federal law. Thus another evidence was given the South of the contempt in which the laws of Congress were held by the anti-slavery party whose candidate was just going to a position of great power and influence.

Not only was the position of Lincoln and the party which elected him ludicrously inconsistent, but the gravity of this very inconsistency gave assurance to the abolition North and evidence to a fearful South that all the gross illegalities and interferences of the disturbing fanatics would be continued. Boldly in Congress or before popular gatherings influential Northern leaders boasted of the Kansas record, predicted the invasion of the Southern States, declared that the interests of the white labor demanded immediate emancipation, and affirmed that unless the demands of this party were at once met they would be enforced hurriedly and with disaster and violence. March 3, 1858, in the Senate Mr. Seward said, "Free labor has at last apprehended its rights, its interests, its power, and its destiny; and is organizing itself to assume the government of the Republic. It will henceforth meet you boldly and resolutely here [in Congress]; it will meet you everywhere—wherever you go to extend slavery. It has driven you back in California and in Kansas; it will invade you soon in Delaware, Maryland, Virginia, Missouri, and Texas. The invasion will be not merely harmless, but beneficial if you yield seasonably to its just and moderate demands. . . . The interests of the white race demand the ultimate emancipation of all men. Whether that consummation shall be allowed to take effect, with needful and wise precau-

⁷⁰²App. Cong. Globe, 35 Cong., 1 sess., 553.

tions against sudden change and disaster, or be hurried on by violence, is all that remains for you to decide. . . . The white man needs this continent to labor upon. He must and will have it."⁷⁰² Thus all things made it plain that in the coming administration as against the negro the Southern white man had no security for his rights; and that, on the other hand, as against the abolitionists and those who were fighting for what they called "a free State," the negro had no rights,—with reference to the New Englander or the emigrating abolitionist the negro was declared and held an inferior being who was not entitled to the pursuit of happiness or the exercise of political powers. In this connection, let me look back again a moment at the important and significant record of the Lincoln party.

The Thirty-fourth Congress was the first in which the Republican party, which was then soon to nominate Lincoln, began to secure ascendancy. They had a majority in the House of Representatives over the Democratic party, which was the party who favored the Kansas-Nebraska bill, and which had pledged itself to abide by the Constitution, the majority voice of the people, and to protect in their admitted rights the Southern people. This Congress held its first session December 3, 1855, and closed its last and third March 3, 1857. The Republican party and its representatives in this Congress endorsed what is known as the Topeka constitution, and made a strong effort to admit Kansas a State under it, at the same time endorsing the rebellious government which had created the constitution. To this end they passed a bill through the House.⁷⁰³ The position taken with reference to the negro by this Lincoln-Republican endorsed Topeka constitution, gave the most conclusive evidence that this party was making a political fight against the South, and not a fight against slavery, and a fight wholly devoid of any Christian or enlightened consideration for the negro. Anything was indicated other than that they desired or were willing to give the negro equal opportunities with themselves or Northern emigrants. The Topeka constitution, the insurrectionary and rebellious legislature, and those who endorsed them,

⁷⁰²Cong. Globe, 35 Cong., 1 sess., Mch. 3, dated on 5th, 1858, 944; App. C. G., 36 Cong., 1 sess., 83.

⁷⁰³Spring, Hist. Kans., 77.

put themselves as strongly against the negro as against the slave-owners. Section one of the Topeka constitution begins by declaring: "All men are by nature free and independent, and have certain inalienable rights, among which are those of enjoying and defending life and liberty, acquiring, possessing, and protecting property, and seeking and obtaining happiness and safety."⁷⁰⁸ No combination of words ever carried a greater deception. The book from which I quote this is the compilation by Ben. Perley Poore, acting under an order of the United States Senate. It is as nearly an official collection of our charters and constitutions as any existing publication. But owing to a crafty manipulation at the hands of the Topeka constitutional convention, of the various fundamental provisions for their proposed State, that body managed to segregate the expatriation feature from the immediate wording of the Topeka constitution. The document accompanied by a memorial from the convention, was carried to Washington and presented to Congress by James Lane, of the Kansas insurgents. The document itself was in a most depleted condition; its numerous erasures and interlineations were most unsightly. The signatures intended for the memorial accompanying the document were all in the same hand;⁷⁰⁹ and altogether its appearance so belied its genuineness that its bearer had a hard time to convince Congress of its authenticity. He made an affidavit,⁷¹⁰ saying that the phraseology of the so-called legislative memorial needed alteration, and that corrections and revisions were made by private parties after the adjournment of the convention. Notwithstanding Mr. Poore did not find it in the wording which he gives, the anti-negro sentiment and force were unquestionably in the Topeka constitution. Prof. Spring, in Prof. Schudder's Commonwealth's Series, concerning the anti-negro features of this constitution, says that "though not literally a part of the constitution, would have the same effect as if they had been incorporated in it."⁷¹¹ Dr. Richard Cordley, by no means Southern in his proclivities, before the Kansas Historical Society, in 1882, said, ". . . they proposed to exclude negroes as well as slavery from the territory. Thus was introduced into the platform

⁷⁰⁸U. S. Chas. and Cons., 580.

⁷⁰⁹App. Cong. Globe, 34 Cong., subj.: Kansas Affairs.

⁷¹⁰Ib., 383.

⁷¹¹Hist. Kansas, 76.

of the free-State party that black-law plank which appears in all its after history, and which was the only serious blemish in the Topeka constitution."⁷⁰⁹ Governor Walker in his inaugural address to the Kansas citizens on May 27, 1857, said, "Those who oppose slavery in Kansas do not base their opposition upon any philanthropic principles or any sympathy for the African race. For in their so-called constitution, formed at Topeka, they deem that entire race so inferior and degraded as to exclude them all forever from Kansas, whether they be bond or free, thus depriving them of all rights here, and denying even that they can be citizens of the United States; for, if they are citizens, they could not constitutionally be exiled or excluded from Kansas. Yet such a clause, inserted in the Topeka constitution, was submitted by that convention for a vote of the people, and ratified here by an overwhelming majority of the anti-slavery party."⁷¹⁰ Another pro-Northern Kansas historian, Prof. Charles R. Tuttle, speaking of the vote on the several questions which were submitted by the Topeka constitutional convention to the free-State people, the questions being so put that the constitution as a whole might be adopted, or certain provisions thereof ratified or rejected, of which the expatriation of free colored people was one, says the constitution "had been printed and distributed freely," so that all knew its several proposed provisions and the several questions submitted to them along therewith. He then says that "on the question whether mulattoes and negroes shall be excluded from the territory . . . 2,231 ballots were cast, and only 453, or seven more than one-fifth of the number polled on that issue, favored the residence of free negroes and mulattoes in the territory. . . . It will be seen that more votes were polled on this question, for and against, than on any other issue."⁷¹¹ Mr. Schouler admits the force of this anti-negro provision.⁷¹² Hence, 1,778 philanthropic (!) *free-State* men favored *constitutional* expulsion of—expatriation of—free men!

Referring to the proceedings of the Topeka constitutional con-

⁷⁰⁹Kans. Hist. Cols., Vol. V., 44.

⁷¹⁰Ib., 339.

⁷¹¹New Cent. Hist. of the State of Kansas (Madison, Wis., and Lawrence, Kan., 1876), 279.

⁷¹²Hist. U. S., Vol. V., p. 332.

vention, it will be seen that the anti-free negro provision was managed as follows:

The purpose for which the convention met was "to frame a constitution, adopted a bill of rights for the people of Kansas, and take all needful steps toward the foundation of a State government preparatory to the admission of Kansas into the Union." The delegates to this convention came together clothed with this authority by virtue of the express will of their constituency, the free-State-abolitionists.¹¹³ Pursuant to this authority from those they represented, the delegates met, adopted a bill of rights, a constitution, and ordered that at the same time and along with the constitution a vote be taken, "such vote to operate as instructions to the first general assembly," directing, if the majority vote so orders, "the passage of laws by the general assembly providing for the exclusion of free negroes from the State of Kansas."¹¹⁴ This was as much a part of the "foundation of a State government" as any act that that body performed; it was done "preparatory to the admission of Kansas into the Union." Congress and the world thus had notice that the Topeka constitution came to them resting upon the expatriation of freemen as one of its primary cornerstones.

This was the fundamental principle, let us not forget, for which the North had poured out her men and treasure; for which Eli Thayer, once a Massachusetts representative in Congress, had passed "like a flaming meteor" throughout the North; it was the principle for which Rev. Theo. Parker took a Sunday collection in his church; it was a recognized object in all the Kansas insurrection. It was Lincoln's announced doctrine: "A home for free whites only." It was a diametrical contradiction to the first section of the Topeka document: "all men are by nature free and independent" and "all men have the inalienable right to seek happiness and safety." Whatever else freedom may imply, no one can question that it includes a right to emigrate—a right to change allegiance from one country to another—a right established most certainly on behalf of *free Americans* and those from other jurisdictions who desire to become such, when we forced England at

¹¹³See proceedings of convention in Evidence, 651.

¹¹⁴Ib., 645.

the mouth of the cannon and point of pike to sign the Treaty of Ghent in concluding the war of 1812. No less forcibly does liberty imply the right to change allegiance from one State in our Union to another,—to emigrate wherever the “pursuit of happiness” or the hunt for “safety” renders advisable or desirable. The denial of this right of emigration is the establishment of *one* important essential of *slavery*. A denial of this right of seeking domicile and “pursuit of happiness” or “safety” to any class of individuals is to recognize and establish an inequality; it is a declaration that some class has superior rights; it either negatives that “all men are created equal,” or admitting such, affirms that governments can and should *create* inequalities. To recognize that congenital inequalities exist; or that, in their discretion, governments may protect one class to the disparagement of another, is to affirm that that class in a community highest in the scale of social, intellectual, and moral development may protect itself regardless of the hardship imposed upon the less fortunate members of the social body. To admit the right of the survival of the fittest—to admit that the superior class in a State, for instance, may be its own judge in bestowing social and political rights—is to admit the contention of the slave-holding South. The endorsement by the North of the Topeka constitution and its fruits in Kansas, and their unqualified endorsement by the Lincoln party, brought that party in their selection of Mr. Lincoln to the Presidency with none other than such admissions; and in a plight showing a battle against the South for Northern political supremacy,—regardless of existing laws, regardless of a yet majority supported Constitution; and without the first page in that party’s history containing a ray of hope to those of all people then most in need of a friendly hand: the free negro; and as for the bondman, the clanking of his fetters, they declared, might irrevocably well an answering chorus to that more hopeless wail which rose from white-winged Northern slavers far out on the high seas.

(6) The next great cause, which I shall mention, of secession was the full assurance of its necessity to prevent Northern-led slave uprisings with their inevitable murder and desecration of Southern homes.

Slave insurrection as a means of intimidating the South was

boldly threatened at least as early as 1812. Northern people then declared that the time would come when the North would "*appeal directly to her strength, and to the fears and weakness of the country of slaves.*" Her people were besought "*at every hazard to apply the needed remedy.*"¹¹⁵

Prof. Siebert, Fred. Douglas, and some other writers, claim that the depredations of the underground railroad were a blessing to the South in that the dangerous and restless spirits were removed. Mr. Lincoln in his ante-bellum speeches contended that the dangers from slave uprisings were purely creatures of the imagination. Neither of these positions is correct. While a few of these negroes who were stolen or enticed away North were dangerous, yet the danger to the South lay in the lead of white Northerners, and the assurance of aid and sympathy which the underground movement and the so-called personal liberty laws gave the negro. It was the lead of intelligent white Northerners, backed by Northern capital, contributed by numerous substantial Northern citizens, which made the danger to the Southern home and its inmates *imminent and real.*

Stories of St. Domingo's fate at the hands of insurrectionary slaves, or the promise of protection and encouragement at the hands of white men, had, in many instances, given the South—not a theory, or conjecture, or hysterical fear, but *evidence* of what such things would lead her slaves to do. I need here to call attention to only a few representative instances. I have mentioned the insurrection in South Carolina in which fifteen miles of country were laid in ashes and death dealt out to the helpless whites—the undoubted result of incitation by the Spanish then in Florida. An early one of importance was led by white men in 1800.¹¹⁶ In Southampton county, Virginia, in 1831, accompanied by six of his fellows, Nat Turner, a brainy negro with insane hallucinations, started to rouse the negroes to slay the whites. His band increased rapidly, "and in two days fifty-five white men were murdered." "Swiftly and stealthy as Indians, the black men passed from house to house, not pausing, not hesitating, as their terrible work went on, . . . that blow fell on man, woman, and child,—nothing that

¹¹⁵Pol. Pamp., Vol. CX., Slave Rep., p. 1: Lib. Cong.

¹¹⁶Richmond (Va.) Recorder, April 3, 6, and 9, 1803.

had a white skin was spared."⁷¹⁷ In Louisiana "with the beginning of 1811 came another insurrection of the slaves of the parish of St. John the Baptist, thirty-six miles above New Orleans. It was as barbaric as it was picturesque and horrible. About five hundred of these half-savage people formed themselves into a column, and, with flags flying, marched to the tune of wild music made by blowing into reed 'quills' and by beating upon iron kettles and other sonorous implements. They moved directly toward New Orleans, destroying the plantations in their way and forcing the slaves to join them."⁷¹⁸ After much excitement and damage, they were finally suppressed by the garrisons of Baton Rouge and Fort St. Charles. Of another occasion the same author says, "Rumor of the revel in St. Domingo had reached the ears of the slaves on the plantations of Louisiana; in the lonely parish of Pointe Coupée the dusky half-savages planned a massacre of their owners. The negroes outnumbered the whites in this parish, and its remote situation rendered the task an easy one, if but the secret could be kept until the blows were ready to fall. It is hard at this time [1888] to realize the awful nature of the peril hanging over the scattered and helpless families. The men and the children were to be killed outright; the women were to be subjected to a fate an hundred-fold more horrible. Everything was ready, the plans all perfected, when by the merest chance (growing out of a disagreement among the leaders) the secret was divulged and the dreadful deed prevented."⁷¹⁹ Not without influence on the minds of both classes were the results of the slave insurrection in the South African English colonies in 1823, where over 2,000 armed negroes, led by determined slaves, swept both citizens and soldiers before them, and spared neither man, woman, nor child. This, too, in an instance where the plot was discovered some hours before the outbreak of hostilities.⁷²⁰

Encouraged by white leaders, and armed with modern guns or deadly pikes, the South knew that an uprising meant slaughter of the master and prostitution of the women and girls to a condition

⁷¹⁷T. H. Higginson, *Travelers and Outlaws* (Boston, 1889), p. 287.

⁷¹⁸Maurice Thompson, *The Story of Louisiana*, 195.

⁷¹⁹*Ib.*, 144-5.

⁷²⁰Joshua Bryant, *Negro Insur. in Demerara* (Germantown, S. Af., 1824).

the awfulness of which the mind refuses to picture. Under the then existing conditions, there can be no doubt that with every year this danger increased. John Brown's descent upon Harper's Ferry brought to light facts confirming this belief then entertained in the South. The South came to the conclusion that what is generally called secession was the most available method of checking and finally averting this impending evil. Be that as it may, the guilt and responsibility for the results lie upon those who brought about so dire a condition.

The sequence of cause and effect may readily be traced through the Northern abolition-born events which I have described, to what is known as "John Brown's raid at Harper's Ferry." Brown received his early prejudices against the South in the services of the underground road; the emigrant aid organizations produced, in large part, the Kansas rebellion; and the Kansas rebellion developed the recklessness and unbalanced thirst for slaughter characteristic of Brown from Pattowatomie to Harper's Ferry. The "liberty laws" in nullification of the Constitution and certain laws of Congress passed by virtue of the authority thereof, fostered a public sentiment without which white men would never have attempted to lead slave insurrections. The immediate results of Brown's Harper's Ferry affair do not warrant serious historical attention. Brown and his few men, unbacked and alone, might be treated as insignificant figures. As the representatives of a numerous and dangerous class they become important. Brown gave the South an opportunity to confirm what she believed to be the real position of the North—that is, the position of such numerous and increasing body of influential Northerners that we cannot differentiate them from the North as a section; and hence as a section for them she became responsible. It was the developments—the incidents—the manifestations, with which latter Brown had no personal connection—these make his "raid" of great evidential importance and of much significance in ante-bellum history.

If his work had been the unaided movement of a few fanatics, it would deserve no serious place in history; but such it was not. The feculent Northern atmosphere had become fecund of mental abrasions capable of any degree of criminality. An insane mania

was rapidly gathering headway. I believe this statement to be the unquestionable verdict of history. There was as much money,—there were men with influence as powerful,—as were behind the Kansas insurrection, in aid or in sympathy with such movements as Brown's represented. They furnished thousands of guns, an army of men, and stood for years in Kansas successfully against all opposition. What such men had done, could again be done. Many of the men who helped the emigrant aid movement, which had more than once premeditated and planned murder,¹²¹ and the entire Kansas rebellion, were the same men whose money and influence and personal encouragement helped Brown to initiate what was meant to be war—slave massacre of whites under the lead of Northern whites.

A few men, even one man, with money, brains, and tact at leadership, may subvert an entire section; instances are not wanting in which an entire nation has been thus moved. "More clearly than any other important event in our history it [the Kansas-Nebraska bill] was the work of one man—Douglas," declares a historical lecturer¹²² at Harvard University in 1902. The reputed influence of Cutler of Massachusetts before the Congress which passed the Ordinance of 1787, and many other similar instances might be cited. If such, then, be the power of one man, what may we expect of many having a common purpose and working at the same time,—especially when the many are unscrupulous and have a perverted and excited popular feeling as a rich field of sympathy and support? That these conditions existed in increasing numbers and imminence from the inception of the Northern rebellion in Kansas down to secession is proven:—

(1) By the known character of the man permitted and aided to lead the initial onslaught. (2) By the fact that Brown and the scheme were the product of a faction sufficiently strong and capable of doing the South irreparable damage; and that this is true is attested by the prominence and ability of the men who aided and encouraged him, and by the character of the gatherings which listened to his appeals—no one or more of which made an effort to check the gathering storm. (3) By the fact that Brown was only

¹²¹Boston Transcript, Dec. 4, 1884.

¹²²The Lower South, 103.

one among the many willing aggressive white Northerners who sought an opportunity to lead the slaves in insurrection; and that the teachings of others besides Brown declaring the righteousness of slave insurrection received the endorsement of prominent officials and other Northern citizens. These facts had unusual weight in confirming the South of impending, irreparable calamity. (4) The number and character of the white men who participated in the attack at Harper's Ferry, showed that white leaders of ability were to be found, and that not among the ignorant and lowly, but from the intelligent and more or less well-to-do classes; and the incidents of the attack were proof of the desperateness of the insurgents. (5) The most conclusive evidence of the widespread extent of the insurrection spirit was given by the numerous and continued demonstrations of sympathy and approval when the results of Harper's Ferry were known at the North.

In conclusion, I shall call attention to the fact that the incendiary-insurrectionists lost none of their ardor nor ceased from any of their efforts even after Virginia put a just and righteous period to John Brown's career. Let me examine, in concise detail, the evidence supporting each one of these five counts.

I. The known character of the man permitted, encouraged, and aided to lead the initial stroke.

In the first place, it had been known for many years, throughout the North, that Brown was an open advocate of armed slave insurrection led by white men. It was a well-advertised fact that at one time he had gone abroad to study the methods of the brutal insurrectionists of Hayti and St. Domingo, and the fortifications of Europe, for the purpose of applying the knowledge gained to an open war of negro insurrection against the South.⁷²² It was known that he insisted that it was "better that a whole generation should pass off the face of the earth, men, women, and children,—by a violent death,"⁷²³ as in these exact words he declared, than that slavery should longer continue. It was known that Brown "meant to attack slavery by force, in the States themselves, and to destroy it . . . by the weapons and influences of war."⁷²⁴ It was notorious

⁷²²Saborn's Life of Brown.

⁷²⁴Ib., 122.

⁷²³Ib., 166.

that for more than ten years he had organized societies into which he had inducted both whites and blacks, the constitution of which taught and declared that "no jury can be found in the Northern States that would convict a man for defending his rights to the last extremity"; which simply meant that Northern juries would not respect the Federal laws regulating the return of fugitive slaves; and which taught that murder in resisting Federal mandates and United States officers would go unpunished by a nullifying North. It was also a part of the business of these societies to advise fleeing slaves to collect against their pursuers ready for murder, and "let the first blow given be the signal for all to engage, [and] do not your work by halves, but make clean work with your enemies." Nor might innocent and law-abiding white Northerners escape the clutches of these arch plotters; the rescuing party were thus counseled: "After effecting a rescue, if you are assailed, go into the houses of your most prominent and influential white friends with your wives; and that will effectually fasten upon them the suspicion of being connected with you, and will compel them to make common cause with you, whether they would otherwise live up to their professions or not."²⁸ At Springfield, Massachusetts, Jan. 15, 1851, in a single day as many as forty Northern whites and blacks joined this organization, one other object of which was to circulate among Southern slaves papers containing the above advice and instruction.

What was Brown's personal character? It is quite natural to inquire whether he was a man who might be morally capable of such desperate and soul-sickening butchery as slave insurrection must mean. Some of his co-conspirators have endeavored to hide his blood-stained hands under the covering of "divine instrumentality." Such profane blasphemy is couched in such expressions as "servant and prophet of God"—his campaign "is now seen to have been an omen of his [God's] divine purpose"²⁹—"sainted hero" (Hinton, *John Brown and His Men*)—"a man of God" (Connelley).

But we are not so much interested to know what others have said of his character and life, as to hear what the *deeds* of his life

²⁸Ib., 124, 127.

²⁹Ib., 123.

have to tell. Early in the Kansas rebellion we find him acting with the Northern insurgents. Sanborn, who wrote (in 1888) by authority of the Brown family, says, "Until Brown arrived on the scene in Kansas, few blows had been struck in the Lord's cause."⁷²⁸ Brown began to strike; who fell victims to glut his scarce more fiendish greed of human gore? Jas. K. Hosmer, Ph. D., LL. D., of Minnesota, gives us this picture of these first blows: "... four sons, a son-in-law, and two others," together with old man Brown, went on a secret mission of vengeance. "Three Southern men, a father and two sons, named Doyle, men inoffensive, against whom no charge could be brought, were compelled, it was May 24, 1856, to go with them; and the three next morning were found murdered. The weapon evidently had been a short cutlass which Brown had brought with him from Ohio. A Southern man named Wilkinson, forced from his home in spite of the entreaties of his sick wife, was next day found murdered, evidently by the same means. The tale of victims still lacks one: he was found in William Sherman, slain in like fashion. Like the Doyles, the other victims were blameless except in being from the South. Twenty-three years after, one of the band, Townsley, told the story, how the old man gave the signal and the sons and followers did the deeds, though in the case of the older Doyle the old man himself did not withhold his hand"; and even the next morning his "hands were still bloody from the fearful work."⁷²⁹

Lucien Carr, now of Massachusetts, of the men thus murdered, says they were "peaceable settlers on the Pattowatomie."⁷³⁰ Sanborn says these men were "notoriously bad." But this statement is overwhelmingly refuted. Even the heretofore oft-quoted Dr. Chas. Robinson admits their inoffensiveness. The Northern members of the Congressional investigating committee refused to enter an investigation as to the facts, notwithstanding an investigation was demanded, and notwithstanding Congress had specifically declared that one of the duties of this committee was to inquire into all disturbances touching personal, public, or private "rights, peace, and safety of the residents of the said Territory."⁷³¹

⁷²⁸Life of John Brown, 181.

⁷²⁹A Short Hist. Miss. Valley (1901), 177-8.

⁷³⁰Hist. Missouri, 251.

⁷³¹App'dix Cong. G. vol. 1 sess., 34 Cong., 291, 636, 675, 690.

Evidence that Brown had either committed, incited, or abetted these sickening, brutal homicides, at the time and immediately went abroad in the North. Leading Northern people and the local representatives of the Northern press knew that this was Brown's method of dealing with the Southern people. It was widely known that he held to, and firmly sought aid to carry out, his grim purpose on a massive scale. "The fame of the man had gone before him," we are told in the biography of one of his most ardent admirers.⁷²³ At the time Kansas had numerous correspondents of leading Northern papers, and these men kept the public informed concerning Brown's deadly purpose toward the South. They gloried in his purpose. Hinton says, "Most of the regular correspondents who were present in the Kansas fighting years—as Phillips, of the *New York Tribune*; Redpath, of the *Missouri Democrat*; William Hutchinson, S. F. Tappan, and William Winchell, of the *New York Times*; John Henri Kagi, of the *New York Post*; Hugh Young, of the *New York Tribune* and Pennsylvania papers; Anderson, of the *Boston Advertiser*, and myself, of the *Boston Traveler* and *Chicago Tribune*, with a score of other . . . were earnest supporters of John Brown."⁷²³ Dr. Chas. Robinson's recent biographer, Prof. Frank W. Blackmar, University of Kansas, says of John Brown: "His Kansas record will not bear the enlightened touch of history . . . no rational historian to-day can sanction the course he pursued in Kansas."⁷²⁴

II. That Brown and his scheme were themselves results rather than causes—that they were the fruitage of Northern State nullification, and that Brown was merely one of numerous leaders of a faction sufficiently large and powerful successfully to wage a slave insurrection, is evidenced by the prominence and character of his aiders and abettors and the character of the various gatherings that listened with patient approval to his harangues.

While preparing for his incursion into the South to excite and arm the slaves to insurrection and murder, he visited many leading Northern men and cities. He had more or less sympathy and aid in each. He went to Chicago, to Rochester, to New York city,

⁷²³Frothingham, *Life of Theo. Parker*, 454.

⁷²³John Brown and His Men, 40.

⁷²⁴Ann. Rep. Amer. Hist. Association, 1894, p. 218.

was a guest at the Astor House; to Boston, where he was the guest of Judge Russell and Dr. Thayer. He visited Geo. L. Stearns, and was the guest of Theo. Parker, at Concord, New Hampshire. As Hinton says, "All over the North, especially in the more active centres of Republican political activity, John Brown found friendly sympathizers, a good deal of verbal encouragement, and a small degree of pecuniary assistance. Yet no one who came in close contact with him could doubt but that he held firmly to a grim purpose, and that at some day, not far distant, he would probably be heard from by way of a direct attack on slavery. There never was any disguise" on Brown's part, he adds. There can be no question that a committee of Massachusetts citizens furnished two hundred of the famous Sharp's rifled carbines.⁷⁸⁵ The attempt to shield the Emigrant Aid Company for its part in furnishing him the deadly munitions and implements of war, is the varietal quibble.⁷⁸⁶ Nor can responsibility be avoided by the plea that it was not known exactly what use he would make of these guns. The fact is that he made no secret of the object for which he desired the guns,—further than what seemed necessary to prevent knowledge of his plans reaching the South in such a way as to put the intended victims on the guard. Mr. Frothingham, in his life of Theo. Parker, the well-known Boston minister, tells us that Brown went "to Kansas to operate against the slave power."⁷⁸⁷ The Kansas rebellion,—it is almost superfluous to add again,—was fostered, aided, and encouraged by men hostile to the South; many of the same men aided and made possible Brown's effort. The war in Kansas was to force the abolition of slavery, was the first move against the local government of Constitutionally protected States; it was made the pretext, on the part of at least a dangerous number who would never have undertaken the move but for the sympathy which the excitement that had sprung against the South out of the agitation, to excite the Southern slaves to murder the white people among whom they lived. So it was, using Frothingham's words, that Brown wanted the rifles "to carry the war, if advisable, into the enemy's country. . . . He frankly

⁷⁸⁵Burgess, *The Civil War and the Const.*, Vol. I., 40

⁷⁸⁶Frothingham, *Life of Theo. Parker*, 461.

⁷⁸⁷*Life of Theo. Parker*, 453.

said that whatever was entrusted to him must be entrusted unconditionally."⁷³³

The futile attempt of more recent years to warp history with the impression that the Harper's Ferry affair had no widespread, powerful, and dangerous backing, is apparent upon slight analysis. Some Northern men who had avowed their purpose to invade the South with the overwhelming numbers and the superior wealth of the North, have sought to divert the ear and eye of the world and centre them upon John Brown as a criminal fool who had little backing. Eli Thayer, for instance, has painted Brown in most Stygian colors—but why? What part had Thayer, twice a member of the Massachusetts legislature and at the very time of Brown's raid a member of Congress,—Eli Thayer, the fluent of tongue, the prime mover of the emigrant-incubator—what *connection* had *he* with Harper's Ferry? John Brown, according to Mr. Thayer's own statements, went to him in Worcester, Massachusetts, "to solicit a contribution of arms for the defence of some Kansas settlements which he said he knew were soon to be attacked by parties already organized in Missouri for that purpose. Not doubting his word," says Thayer, "I gave him all the arms I had, in value about five hundred and fifty dollars." "NOT DOUBTING HIS WORD." This is a thin attempt to evade responsibility. How could Thayer believe the story? Notice the true situation: (1) Brown was not then and had never been recognized by Thayer as *reliable*. Before this request for arms, Amos A. Lawrence had asked Robinson, Mr. Thayer's agent, to employ Brown in the work of the Emigrant Aid Company. "But very soon Governor Robinson wrote that he would not employ him, as he was unreliable, and 'would as soon shoot a United States officer as a border ruffian,'" so testifies Mr. Thayer himself.⁷³⁴ (2) Thayer himself denounces Brown for his Kansas murders in vigorous language: "If any butcher in New York city should hack and slash his own hogs and steers as John Brown hacked and slashed to death these men and boys in Kansas, he would be arrested and imprisoned without delay. After this Brown slew an unarmed, inoffensive farmer in Missouri."⁷⁴⁰ Thayer, according to his own testimony, knew that

⁷³³Ib., 454.

⁷³⁴Kansas Crusade, 192.

⁷⁴⁰Kansas Crusade, 196.

Brown had said, "I have not come to make Kansas free, but to get a shot at the South." Thayer confesses: "He wished to begin a civil war."⁷⁴¹ Thayer knew Brown's position with reference to the South. For charity's sake the South may never say that Thayer furnished that five hundred and fifty dollars worth of guns in order, Nero-like, to laugh while Brown took that deadly shot; but the day is here when impartial history will say that the criminal negligence of the North was becoming an unbearable menace when munitions of war would be given to one known to be "unreliable, and who would as soon shoot a United States officer as a border ruffian"; entrusted to a man who had slain unarmed, inoffensive men,—and that to a man who had no connection with the cause which Thayer represented. No, the South, at least, will never believe that Mr. Thayer was misled. This will be the Southern verdict for various other reasons, some of which are: (1) At the time that Brown sought and obtained these guns, the United States soldiers had, by order of the President, long since undertaken the pacification of Kansas; (2) these soldiers were upon the ground, amply strong, and indisputably willing to protect all parties making proper application to their officers; (3) they could have been reached long before Brown and his guns could have gone from Massachusetts to Kansas; (4) for over three years the Northern settlers in Kansas had been well armed, had drilled companies and all the guns they could use; (5) all these facts were known to Thayer better than to any other man in the world. With all his sulphurous anathemas against Brown, Senator Thayer has failed to divert attention from the crimson hue of his own reckless acts. I must agree with one statement, at least, made by Thayer's Northern reviewers: "Mr. Thayer is not above garbling, by suppression and otherwise."⁷⁴²

Commenting on the assistance rendered Brown in preparing for his Harper's Ferry attack, by George Luther Stearns, a wealthy Boston merchant, Hinton says, "Without Mr. Stearn's friendship and coöperation, the blow at Harper's Ferry would probably never have been delivered." While this expression is doubtless an effort to throw discredit on those who have since defamed old Brown to

⁷⁴¹Ib., 195.

⁷⁴²The Nation, Nov. 7, 1889, p. 373.

hide their own sins, yet it shows that Northern wealth was being devoted to aid aggressive war upon the South. Frothingham says Stearns was Brown's "largest supplier of material aid."¹⁴³ The South was undoubtedly justified in the belief that the North was ready to hear any man, no matter what his record or how designing his future, so that he was an enemy to the slave-holding section. Long after Brown's Pottowatomie butchery, we find one branch of the Massachusetts legislature listening to him address them; next we see him in Boston "arranging for the Stearns' rifles that were captured by Virginia in 1859";¹⁴⁴ next he speaks to crowded houses in the leading cities of Connecticut; then we find him preparing to arm the negroes. "At Collinsville [Connecticut] he made with Charles Blair a contract for the manufacture of 1,000 pikes, 900 of which were captured by Virginia." Upon the pike contract he paid cash \$550.¹⁴⁵ Here is a point which some overlook: negroes were not trained to use the gun,—a pike was the negroes' weapon. No stronger evidence was needed to convince Northern men of Brown's intention. Sharp's rifles, United States Springfield muskets, and Hall's carbines were sent by Northern people to Kansas: in less than one year, 1855-'56, no less than five thousand one hundred of these and two thousand five hundred revolvers, and four twelve-pound guns,—besides the thousands that preceded, and the great numbers that came after; but pikes were made with which to open the hearts of the Southern people who yet remained on their native lands! The truth is, that the leaders of the Northern "movement" were ignorant of Brown's plans only to the extent that he divulged the time and place to a chosen few; in this he certainly showed some generalship. Of this latter number was Henry Howe, LL. D., the well-known historian, and for some time member of the United States Senate. Howe says that he had a conversation with Brown concerning the undertaking at Harper's Ferry the very night Brown started for that place.¹⁴⁶ Yet not once did he warn Virginia, the Federal Government, or any private individuals of the threatened evil,—by doing which he might have saved himself the guilt of an accessory before the fact. Frothingham, writing

¹⁴³Life of Theo. Parker, 459.

¹⁴⁴Hinton, John Brown and His Men, 143-4.

¹⁴⁵Thayer, The Kans. Crusade, 199.

¹⁴⁶Howe, Hist. Ohio, Cent. Ed., Vol. III., 331.

of the Rev. Theo. Parker's part in the arch conspiracy against property, happiness, life, and female security, says that February 22, 1858, in preparing for Harper's Ferry, in the State of New York, "in a retired spot, beneath a perfectly loyal roof, to a few tried and trusty people the Virginia scheme was unfolded in all its parts, the locality illustrated, the provisions and contingencies explained, the movements detailed, the probable or possible eventualities confronted. The whole evening, and all the next day, the discussion went on between the conspirator on the one side, and his astonished auditors on the other; the old hero answering questions, meeting objections, quieting doubts, disarming fears. . . ."⁷⁴⁷ F. B. Sanborn, who wrote Brown's life at the request of the family, Edwin Morton, a classmate of Sanborn at Harvard University,⁷⁴⁸ and other prominent men were present at this meeting and were the approving auditors to the plots of this red-handed Kansas murderer. Charity alone forbids me to exclaim:

“Devil with devil damned
Firm concord holds. . . . ,”

and

“Lured with the smell of infant blood,
great deeds
Had been achieved whereof all hell had wrung;”

for mighty Northern leaders

“cried out Death!
Hell trembled at the hideous name, and sighed
From all her caves, and back resounded Death!”

But since

“neither do the spirits damned
Lose all their virtue.”

so it was determined to move cautiously and surely. But should I apply this figure, would my words be merely those of groundless denunciation? Dr. Burgess, Dean of the Faculty of the University of Columbia (New York), says, "Brown certainly intended the wholesale murder of the whites by the blacks in case that should be found necessary to effect his purpose."¹⁴⁰ Brown was

¹⁴⁷Octavus Brooks Frothingham, *Life of Theo. Parker* (Boston, 1874), 459.

⁷⁴⁸Chadwick's *Life Theo. Parker*, 337.

⁷⁴⁹The Civil War and the Const., Vol. I., 42.

bent on worse than rebellion, worse than the most inexcusable secession,—the success of his mission meant murder and infinitely more damnable consequences. Could I find language too strong with which to describe the schemes of those who plot to perpetrate or enable others to commit the highest crimes known to civilization? Sanborn reported to T. W. Higginson and Rev. Theo. Parker what Brown had divulged. Parker had Brown come secretly to Boston for an interview. At this interview the Virginia scheme was discussed with Parker, Higginson, Stearns, and Howe—all men of means, men of prominence, men of education; all men who would never have dreamed of endeavoring to repeat on Southern soil the nauseating horrors of the negro insurrection of Hayti, had not the Northern anti-slavery fanatics—all classes, the underground railroad, the Kansas rebellion, the literature, full of falsehoods or over-stated conditions, issued by various anti-slavery organizations—had not the combined influence of all these—*prepared the way* and rendered in sympathy with such movements a large public sentiment of misguided and unduly excited Northern people.

James Redpath, a man of education and fair ability, had for years been one of Brown's confidants and staunch supporters. That he was guilty, the fact that he fled from the committee sent by the United States Senate to inquire into the Harper's Ferry affair, attests most conclusively. He did not have the courage to face an investigating committee; but, secure from punishment for a crime of which he was as guilty as Brown, in the fall of 1859 he sat himself down and wrote for publication his "Public Life of Captain John Brown." It was one of the strong witnesses which impelled the South to believe that she was at any time liable to a repetition of slave insurrections led by intelligent whites of the North. It is also an important witness to prove the character and influence of the men who were behind this and similar moves. The book was published in Boston by Thayer and Eldridge. It was given to the public in the early part of 1860. In their Card the publishers "congratulate themselves and the public" on securing Redpath as the author of the publication, because they say he was a man "whose previous life had been so identified in feeling and character with the career of the sainted hero." Blessed be *sheol*! was sweeter music to Southern ears. In his preface the

author says that when he heard of John Brown's arrest, "I endorsed John Brown," and went into print to defend him and his "scheme of-emancipation." He expresses his pleasure that the publishers of his book "believed in John Brown." On page eight of the Preface he says, "I think John Brown did right in invading Virginia and attempting to liberate her slaves." He endorses slave insurrection because he says it is the only weapon the Southern people fear. He dates chapter one "December 2, 1859," and on page thirteen says, "To-day John Brown was hanged by a semi-barbarous Commonwealth, as a traitor, murderer, and robber, and fifteen despotic States are rejoicing at his death; while, in the free North, every noble heart is sighing at his fate, or admiring his devotion . . ., or cursing the executioners of their warrior-saint." The author tells his readers that yet another insurrection is to follow the one Brown imperfectly began. But I must pass this witness; let those who doubt read his book; and then question he who can that the South was sorely pressed.

John Henri Kagi, of the *New York Post*; Richard J. Hinton, Kansas correspondent of the *Boston Traveler* and the *Chicago Tribune*, and eight other intelligent white men, had assisted Brown and helped to make the preparations. They went with him from the drill-field at Springdale to Harper's Ferry. Kagi and Hinton were fully aware of Brown's plans months before the effort to carry them into execution. Owen Brown "who was vowed to the work in his early youth," was a warm advocate of his father's designs and intended onslaught on white slave-owners. Hinton points out that in Philadelphia, on March 10th previous to Harper's Ferry, Brown must have communicated details of his plan to Fred Douglas, Henry Highland Garnet, of New York, and Stephen Smith and William Still, of Philadelphia; and that as a result of this conference, Brown's son was sent to Hagerstown, Martinsburg, and Harper's Ferry, to make certain inquiries, and that "the object of these was to find out the underground railroad routes and stations."⁷⁵⁰ This information is important because it shows that the underground system had much to do in making possible slave insurrections by white Northerners.

III. That Brown was only one among many willing, aggressive

⁷⁵⁰John Brown and His Men, 170.

white Northerners who sought an opportunity to lead the slave in insurrection; and that the teachings of others besides Brown that slave insurrection was to be devoutly desired,—whose position likewise received the endorsement of prominent Northern citizens and officials,—did much to confirm the South in her belief of impending calamity, and also go to establish my premises.

Richard J. Hinton, some time one of the editors of the *Republic*, published in Washington city after the war, and who, from about 1884, was connected with the American Society of Irrigation Engineers, of New York, went to Kansas in the early days of her insurrection as the representative and correspondent of the *Boston Traveler* and *Chicago Tribune*. In 1894 he published his book, *John Brown and His Men*. In it he admits that he went to Kansas to excite, foster, or lead, if need be, slave insurrection. This is not the only evidence that the Kansas rebellion was meant to be war—war not alone for the conquest of Kansas, but war upon the South. July 12, 1858, Rev. Theo. Parker wrote: "In 1856 we were quite close to a civil war. Had the governor of Kansas done as we bid . . . the war would have begun then."⁷⁵¹ "As we bid!" The "we" must have been the Northern leaders of the emigrant aid and other similar organizations, to all of which Parker was a constant contributor. However unreliable a witness may be, statements criminating himself are always evidence of the highest character to prove his guilt. James Redpath, a native of Massachusetts, went West and became identified with an organ called the *Missouri Democrat*. In a published work (New York, 1858) he avowed that he had gone to Kansas "hoping to foment slave insurrection." It is certain that Brown's move on Harper's Ferry was merely a part of a plan which, in its entirety, failed to materialize. The cause of the failure was that a man,—an English fencing master,—who had been employed by Brown to give instructions in drill, gave out some general information which caused Brown to move before the appointed day. As is shown by Frothingham, no definite information was given, but it precipitated action. It had been planned that Dr. A. M. Ross, of Toronto, Canada, who went to Richmond, Virginia, "according to a previous understanding with Brown," should carry out another detail

⁷⁵¹Frothingham's *Life of Parker*, 475.

of the bloody tragedy, though just what it was we shall probably never know. It is practically admitted in Ross's letter of Jan. 21, 1893.⁷⁵³ Ross and Hinton are both corroborated by Redpath, whose book, as I have said, was published in 1860. He emphatically states that the object of Brown and his co-conspirators in going to Canada previous to Harper's Ferry was to elicit the support of the slaves who had fled to that country. While in Canada, Brown and his other intelligent white coadjutors had prepared a form of government which they meant to enforce as soon as they secured a hold in the South.⁷⁵⁴ An examination of this plan of government and the evidence connected with it, will convince one that Brown meant to take the entire South,—and not to run off small bands of slaves as is sometimes claimed. The Canadian negroes were organized, together with whatever white help could be obtained, and it was arranged that the Canadian and other contingents were to march under orders from Brown, the head of the new government, of which Kagi was "secretary of war," to Harper's Ferry about October 24th. For some time Brown had had his guns and munitions of war secreted in a farm house near Harper's Ferry and on the Maryland side. The information which had gone abroad, together with suspicions which had been aroused by reason of the several men who had been seen about the rented premises, induced Brown to fear detection and so to strike earlier than the day set. Concerning this unexpected decision, Redpath says, "But the decision, however necessary, was unfortunate; for the men from Canada, Kansas, New England, and the neighboring free States, who had been told to prepare for the event on the 24th of October, and who were ready to do their duty at Harper's Ferry at that time, were unable to join their captain at this earlier period. Many who started to join the Liberators, halted halfway; for the blow had already been struck, and their captain made a captive. Had there been no precipitation, the mountains of Virginia to-day [fall of 1859] would have been peopled with free blacks properly officered and ready for field action."⁷⁵⁴ It had been arranged that the slaves should be drilled to use pikes, scythes, cut-

⁷⁵³Vide Hinton's *John Brown*, 174, 269.

⁷⁵⁴This plan in full is set out in *Sen. Docs.*, Vol. II., 1 sess., 36 Cong., 26.

⁷⁵⁴Redpath, *John Brown's Public Life*, 243-4.

lasses, and bludgeons of all kinds until their liberation or the extermination of their masters, most likely both, should be accomplished. Even after the blow had been struck, Brown hoped for the promised aid; but the prompt action of the then Col. R. E. Lee prevented "Canada, Kansas, New England, and the free States" from marching to join in the carnage.

I pause here to remark that some have said that the Republican party, as it was before the war, was responsible for Harper's Ferry. With this view I do not agree. I believe that the Republican party that elected Lincoln, and John Brown's attempted slave insurrection, were twin brothers,—born of a distorted moral judgment, largely the result of misinformation; the union of various rivulets guided into a stream whose course could be stopped only by a merciful God after the wicked had triumphed for a season.

But the men more closely associated with Brown were by no means all of their class, nor all who cherished similar ambitions. There were, too, many sources from which emanated disturbing and misleading influences which added untold weight and did much to produce the graver conditions. All through the bitter years down to Brown's raid, the North had a decided advantage in having the most widely circulated papers, and most extensive publishing houses. In this way she led public opinion in her own borders, and largely moulded sentiment abroad. Many of her most influential books and papers were the most untruthful, or most base in their plans and recommendations, for the treatment of the Southern people. A few well-known instances will be representative of their classes.

A writer, who, at the time he wrote these words, was professor of Jurisprudence in the university of which he is now president, an institution of which not New Jersey alone is proud, says, "Books like Mrs. Stowe's 'Uncle Tom's Cabin,' which stirred up the pity and deep indignation of Northern readers, certainly depicted possible cases of inhuman conduct toward the slaves. Such cases there have been; they may even have been frequent; but they were in every sense exceptional, showing what the system could produce, rather than what it did produce as its characteristic spirit and method. For public opinion in the South, while it recognized the necessity for maintaining the discipline of subordination

among the hosts of slaves, was as intolerant of the graver forms of cruelty as was the opinion of the best people in the North."⁷⁵⁵ At another place the same author says, "In the summer of 1852 appeared a new engine of anti-slavery sentiment, Mrs. Harriet Beecher Stowe's powerfully written novel, 'Uncle Tom's Cabin,' with its moving and imaginative portrayal of the pathos, the humor, the tragedy, the terror of the slave system. While it unquestionably showed what might come out of the system, it was built upon wholly exceptionable incidents. It was a product of the sympathetic imagination, which the historian must reject as quite misleading, but it nevertheless stirred to their profoundest depths thousands of minds in the North which the politician might never have reached with his protests against the extension of slavery. It was a subtle instrument of power, and played no small part in creating the anti-slavery party, which was presently to show its strength upon so great a scale in national politics."⁷⁵⁶

Yet it was upon such information, similar in its want of veracity to such statements as those given out by a prominent Northern agitator Sept. 11, 1856, when, in all sincerity, he declared that with the Missourians or the Southern immigrants in Kansas "scalping is as common as with other savages"; or not less groundless and misleading than when the same man informed his friends that Governor Shannon had "furnished the Southern marauders" arms and whiskey and set them "to scalp the peaceful citizens of Kansas"—that the mad clamor against the South fed. Nothing less than a dangerously mad mania was possible under such stimulants.

Thomas H. Gladstone, the English journalist, played no unimportant part in disseminating error concerning the South. His most damaging work was at a time most critical in our history. He was the correspondent of the London, England, *Times*. He came to New York in the winter of 1855-'56; from there, passing through some of the Southern States, he went to Kansas. From Kansas he wrote contributions which professed to give the unbiased truth concerning the struggle between the North and the South as it was being carried on in the new Territory. His writings were

⁷⁵⁵Woodrow Wilson, *Division and Reunion*, 126-7.

⁷⁵⁶Ib., 181.

put in book form; one edition, "Kansas; or, Squatter Life and Border Warfare in the Far West," was published by a London house in 1857. Another, about the same time in the same year, was published by a New York house, and purported to be "edited" by L. M. Olmstead. Through the London *Times* and these two publications of his book, he reached, to say the least of it, the Northern people in America and the English-speaking people in Europe. His means of influence were great. He helped to poison the Northern mind; he added breath to the mad mania sweeping down upon the South. When I realize the error, the inaccurate information, upon which Northern anti-slavery indignation grew, I am led rather to pity the masses than condemn. Saddest of all, is the blind faith and unyielding tenacity with which some yet cling to the fast decaying skeleton of untruth in the anti-Southern pre-bellum declarations. Slowly history moves to the vindication of the South's position from first to last.

Professor Albert Bushnell Hart, of Harvard University, has compiled what purports to give various phases of our country's history "as told by contemporaries." That within itself is harmless; "error is harmless while reason is left free to combat it," said Sumner in the House of Representatives, March the 12th, 1856. But when the youth of our land are left under the impression that error is truth—when error lies hidden beneath high scholastic sanction—reason is helpless and error robs truth of rightful dominion. Professor Hart's work, "Welding of the Nation," in American contemporary history series, contains several excerpts from the New York edition (1857) of Mr. Gladstone's book. Hart's book, among other things, purports to give the readers some *impartial* contemporary evidence of the great struggle between the North and the South as wrought out in Kansas. Speaking of the field of his evidence, in the Preface, Professor Hart says, "I have tried . . . to call upon the best informed and best disposed witnesses." In the prefatory biographical note he says, "Gladstone, a kinsman of William E. Gladstone, was an Englishman who came to the United States as an ordinary traveler and after a tour through the South arrived in Kansas at a critical period. His experience was to a large degree from the pro-slavery side; and his account, first published in the London *Times*, is per-

haps the most impartial contemporary narrative that we have."⁷⁸⁷ "After a tour through the South," says Professor Hart. Yes, but *that was after* a "tour" through the North, and after Gladstone had formed and expressed an opinion as to the guilt of slaveholders, and in favor of the right of the Northern movement in Kansas. He was in New York "during the latter part of the winter 1855-'56."⁷⁸⁸ On his way South he spent some time in Washington city. While *there* and *before* his investigation, he wrote, "I . . . was not long in discovering that, while the President and the advocates of the Southern views maintained the authority of the illegally constituted Territorial Legislature of Kansas, the judiciary and other officers appointed by it, the opposite party, with a large portion of the people of Kansas themselves," supported another organization."⁷⁸⁹ He thus unqualifiedly brands the Southern-elected legislature as "illegally constituted," and prejudices his readers by charging the South and the President with supporting an illegal body.

Perhaps nothing Gladstone said placed the South in a more unjust light, especially in the eyes of Europe, than the way in which he announces the appointment by the House of Representatives of the Kansas investigating committee. Having mentioned the motion to appoint such a committee, he says, "No member from any one of the Southern States voted in favor of the investigation, but happily a majority was given by the Northern States."⁷⁹⁰ While this statement upon its face is true, yet to say no more than he does, especially when taken in connection with other assertions in his writings, was a gross injustice to the Southern position; Mr. Gladstone "smothered the issue," to appropriate the words of a Northern Congressman used in another connection. Gladstone was speaking not alone for Northern ears, but through the paper which he represented, the *London Times*, he spoke to at least all English-Europe. As a "most impartial contemporary," as "the best *informed*" witness, presuming to speak if he neglected or suppressed important truth, he thus branded himself as a *most* prejudiced contemporary and showed that he was by no means the

⁷⁸⁷Am. Hist. Told by Cont'les, Vol. IV., p. 114.

⁷⁸⁸London (1857) Edition, p. 1.

⁷⁸⁹Ib., 4.

⁷⁹⁰Ib., 5.

best disposed witness, and left upon his story evidence of gross injustice—an injustice which helped to prejudice the European world so deeply that the scar yet remains.⁷²¹ He was in Washington at the time, and from the galleries of the Capitol was hearing, or should have been, the arguments of both sides. But little—certainly no adequate—presentation of the Southern position on the Kansas question does he give. Unquestionably the impression left by his language is that the Southern Congressmen were either afraid of a Congressional investigation or too unfair to agree to one. The true history of the appointment of the Kansas investigating committee, whose majority report Mr. Rhodes calls the Howard Report, appointed under a resolution which passed the House of Representatives March 19, 1856, not only helps us to understand Gladstone's pro-Northern prejudice, but is history of no little value and significance.

The motion authorizing the committee grew out of the contest by ex-Governor Reeder for the seat of General Whitfield in the House of Representatives to which Whitfield claimed he had been re-elected October 1, 1855. This contest was before the Committee of Elections, to whom it properly belonged. The committee had asked the House for enlarged powers, whereupon it was moved, "That the Committee of Elections, in the contested election case from Kansas, be and are hereby empowered to send for persons and papers, and to examine witnesses upon oath or affirmation." Whereupon, William W. Boyce, a representative from South Carolina, moved that this resolution be re-committed to the Committee of Election, with the following instructions, viz.:

"Resolved, That the Committee of Elections, in examining and judging of the 'elections, returns, and qualifications,' of persons claiming to have been elected representatives of States, or delegates of Territories which have been duly organized by Congress, shall exclude from their consideration the claims of all persons who, after being afforded ample time to do so, fail to show the election under which they claim to have been elected a representative or delegate was held in pursuance of the laws of the State or Territory sought to be represented by such claimant or claimants, or

⁷²¹Instance: Dr. von Holst (Germany), *Hist. U. S.*, Vol. V., 233.

was elected in pursuance of a law of the United States for the government of such election.

"Resolved, further, That, in the opinion of the House no representative of a State of the Union, and no delegate of a Territory organized by Congress, can rightfully be admitted to a seat in this House, except in pursuance of law.

"Resolved, further, That the validity of the laws of Congress, of States, and of Territories, can be rightfully passed upon by the courts duly established by the constitutions and laws, and by no other power; that, until repealed or modified, or declared null and void by the judiciary, the executive and legislative powers of the government must conform their actions to the laws of the land, and may not disregard them."

"Resolved, further, That the Committee of Elections be hereby instructed to pursue their investigations in accordance with the foregoing principles."⁷⁶³

On the 4th of March Mr. Boyce withdrew his motion to recommend with the above instructions, and Hedley S. Bennett, of Mississippi, moved to amend the said resolution by striking out all after the word "Resolved," and offered a broad resolution appointing Jas. H. Bradley and Sidney S. Baxter a committee to examine this contested election, and which motion clothed them with full power "to elicit clear and full proof upon all points which the parties may respectively submit to them as facts they, or either of them, desire to establish or controvert." This resolution proposed that they take depositions and what else "would tend to a full and perfect elicitation of the truth touching all such controverted matters."⁷⁶⁴ Then he moved to instruct the committee "to exclude," as did Boyce, "from their consideration the claims of all persons who fail to show that the election under which they claim to have been elected" was "held in pursuance of the laws of the State or Territory sought to be represented."⁷⁶⁴

This involved a question that the Republican-abolition members of the House refused to face. Reeder claimed to have been elected at a gathering of the free-State people in which they alone par-

⁷⁶³Journal H. R., March 6, 1856, p. 646.

⁷⁶⁴House Journal, March 14, p. 678.

⁷⁶⁴Ib., 678.

ticipated October 9, whereas the regular authorized election had been held on the 1st. The Republican majority of the investigating committee, which as we well know was finally appointed, do not claim for Reeder a single vote at the regular election; they do not dispute that Whitfield received a majority of the legal votes. They frankly admit that on the regular day of the election, October 1st, "the free-State men took no part."⁷⁰⁸ It must be remembered that at the time Reeder claimed to have been elected, the Topeka government did not pretend to have any organization for civil purposes, and it was not contended that he was elected under the laws of any organized power. This being true, the South took the correct position, that, as contestant and in an election contest for a seat, he could not be heard to dispute the laws under which the sitting delegate was elected. Hon. W. H. English, representative from Indiana, addressing the House March 18th, pending this question, stated the situation in language which cannot be improved. Said he, "At the time of the organization of the present Congress, Mr. Whitfield appeared, produced his credentials (which were in due form), received the oath of office, and took his seat as a delegate upon this floor. He was, *prima facie* at least, as much entitled to a seat as any gentleman here. Upon the face of the papers he was the duly elected delegate—was certified to be such by the Governor—was chosen at an election held under authority of a law passed by the Kansas Legislature, the members of which were elected in pursuance of the act of Congress organizing the Territory. No one can dispute, therefore, that, *as the case now stands, he shows a regular chain of title and a perfect right to his seat; and that it devolves upon those who contest this right, to disprove his title, by competent proof, in the manner prescribed by law, and in accordance with the usages of this body.* A. H. Reeder is the gentleman who contests the seat, and upon whose memorial the Committee of Elections have asked for unlimited power to send for persons and papers, and this is the immediate question before the House. It is proper to remark that at the election held pursuant to the act of the Kansas Legislature, Mr. Whitfield received two thousand nine hundred votes, and Mr. Reeder but thirty-six [though it afterward developed that none were claimed

⁷⁰⁸Maj. Report, Sp. Com., 34 Cong., 1 sess., No. 200, pp. 44-5.

for him]—the whole number of votes being less than three thousand. The latter does not claim to have been elected *at that time*, nor does he pretend that all the votes cast for Mr. Whitfield were illegal. He alleges that some hundreds of them were illegal, but does not contend, nor does any of his friends, that any other person received more legal votes at that election than Mr. Whitfield. If Mr. Whitfield had received but one hundred legal votes, and that was the highest number of legal votes any individual received, he would still be clearly entitled to the seat. Mr. Reeder claims to have been elected at another time; and, although he says that he received a majority of the legal votes [in this different and separate election], he does not say, *and cannot say*, it was at an election authorized by law. The truth is, it was at an irregular and unauthorized gathering of the people without any legal sanction whatever." So it was that the Southern members and their friends proposed to instruct the Committee of Elections, or whomsoever should be appointed to adjudge the contest, as the House had a right to do, as Mr. English put case, "*that the claimant must rely upon the strength of his own case, and not upon the weakness of his adversary . . . he must come into court with clean hands, and cannot be allowed to take advantage of his own wrong.*"⁷⁰⁸ That is, the Southern members and their Democratic friends stood upon the plain, just, and applicable principles of law and equity and parliamentary procedure, that until Reeder showed that whatever votes he had received were cast at a legal and authorized election, he could not question, as contestant, the election of the sitting delegate.⁷⁰⁹ The South shrank no proper investigation. On the contrary, her resolutions courted the fullest; nor did she stickle as to who should constitute the committee to decide the contest. One of her resolutions proposed Bradley and Baxter, distinguished Washington lawyers, who seem to have been personally unobjectionable to no portion of the House. Yet, she declared that any fair and unbiased committee would be acceptable. Fully aware that Reeder had no valid claim, the Northern members sought to avoid this instruction to the investigating committee or

⁷⁰⁸ App. Cong. Globe, 34 Cong., 1 sess., 289.

⁷⁰⁹ See a full discussion, App. Cong. Globe, 34 Cong., 1 sess., 118-122, 122-127, 277-280.

that of Elections, as the case might be; and, in the security of their numbers, preferred to hold matters where they could dispose of them as policy dictated. Hence, on March 17th, Mr. Dunn, of Indiana, had moved to amend the pending motion to amend, and had offered a resolution to appoint a committee "to inquire into and collect evidence in regard to the troubles in Kansas generally," etc., with the Reeder contest as its basis.⁷⁶⁸ On the 19th of March the question came up on agreeing to this amendment to the amendment offered by Mr. Dunn, which clothed the committee with all embracing powers of investigation instead of directing them to determine the contested seat of General Whitfield, the question before the House. By a vote of 104 to 91 the House agreed to amend, and the resolution as amended passed by a vote of 102 to 93, with the Southern members and Democrats generally in the negative.⁷⁶⁹ Few acts have been less justified in point of law, or less without valid legislative precedent, yet few things have resulted more in the preservation of valuable evidence vindicating Southern honesty and self-defence. But nothing of all this does Mr. Gladstone give his Northern and English readers. Let us go further into our analysis of his alleged impartiality and historical credibility.

He gives an untruthful picture of meetings which he says he visited while in the Southern States, and at which he says men of influence "delivered addresses of almost incredible violence on the necessity of 'forcing slavery into Kansas,' and which terminated by an earnest appeal for men and money. The result of this public agitation was, that large companies were formed of young men who were enthusiastic for slavery, and subscriptions of large amounts were made to send these, who were already at blood-heat with excitement, armed into the Territory, flushed with means of support during the continuance of their campaign."⁷⁷⁰ He professes this information upon personal knowledge, hence it can be nothing less than a deliberate misrepresentation. Not only no "large companies armed" were sent or went from the South to Kansas, but no large companies at that time—prior to May, '56,—

⁷⁶⁸House Journal, 685-6.

⁷⁶⁹Ib., 693, 700.

⁷⁷⁰London Ed., 6.

armed or unarmed went to Kansas from the South "flushed with means of support during the continuance of their campaign." While no one accuses even the much berated "border ruffians of Missouri" with being "flushed with means of support," yet it was not of Missourians he spoke; he tells this story of the people of "South Carolina and other Southern States."⁷⁷¹ If he spoke of the Buford movement, or that of Titus or any other branch thereof, he misrepresented it, because they were neither "flushed with the means of support during the continuance of the campaign," nor were they armed, as Senator Wilson, of Massachusetts, admitted in a bitter speech of volcanic but baseless denunciations against Missourians, in which he said that "their lawless chiefs deserve to die felons' deaths and to leave felons' names." He alleged that Governor Shannon armed these South Carolina, Georgia, and other Southerners AFTER they reached the Territory,⁷⁷² but as I have shown, the recorded testimony of non-Southern United States Army officers tells quite another story. Gladstone was in the North before visiting the South, yet he scarcely mentions the early, widespread, and *flushed*, Northern emigrant organizations, and what little he does say of them is as utterly misleading as the English at his command would express. Hear him: "To meet these efforts on the part of organizations in Missouri, Emigrant Aid societies were formed in Boston and elsewhere in the Eastern States to promote the movement on the side of the North."⁷⁷³ "To meet"—yes, he learned his lesson well from Messrs. Howard and Sherman of the investigating committee, with whom he associated in Kansas part of the time they were acting under their Congressional orders,—he vouches the untruth that the aggressive emigrant movement began in Missouri, and that "flushed with means of support" armed bodies swept up from the South. He failed to tell of the "Beecher Bibles" contributed by "rich New Englanders"; he forgets about the Northern cannon and the thousands of Sharp's rifles that had gone from men of influence in the North to the free-State ranks, some of them many months before he reached Kansas. He tells nothing of the *cause* of whatever he

⁷⁷¹Ib., 5.

⁷⁷²App. Cong. Globe, 34 Cong., 1 sess., 855.

⁷⁷³London Ed., 90.

may have heard and seen in the South; the reader is left to feel that this "perhaps the most impartial contemporary" is giving us a true version of an aggressive Southern movement—and a movement to sustain what the writer took care to tell the reader was the "illegally constituted Territorial Legislature of Kansas."⁷⁴

Mr. Gladstone got to Missouri in May, 1856, "five hundred miles from the scene of the conflict."⁷⁵ May 22d he arrived on the "spot" and then proceeds to chronicle the story with which Professor Hart begins his excerpts in "Welding of the Nation." This may be found on page 21 of the London edition. Gladstone says he writes from "information gathered on the spot" (page 11), and "for the most part from pro-slavery men." Let's see.

He says the attack upon and destruction of Lawrence May 21, 1856, and the imprisonment of free-State leaders, evoked a spirit of resistance. He thus ignored the truth that armed resistance had been universal, or well-nigh so, with free-State people for nearly a year before May 21st. He says, "On that eventful day, the town of Lawrence, without offence or crime, was attacked by armed forces." "Without offence or crime"—does any one believe that such a statement came from a pro-slavery source? Can any impartial reader look at the facts concerning the free-State rebellious movements with Lawrence as headquarters, and believe that she was "without offence or crime?" Now, look at the excerpt given by Professor Hart for which he vouches it is "perhaps most impartial." Mr. Gladstone goes back a little before depicting the scenes of May 21st. Speaking of the "Wakarusa war in the winter of 1855," he says, "Before the termination of this first siege, the necessity of some means of defence being manifest," the inhabitants proceeded to fortify. The truth is, they fortified long before this first affair which, as I have shown, grew out of the Branson rescue. This information concerning the first "fortifying" of Lawrence was not only not pro-slavery information, but was misleading and inaccurate, and conveyed a most erroneous idea as to the beginning of hostilities. Again, of this same first "attack" or first "Wakarusa war," he says, "The inhabitants were also placed under arms," etc. When the truth is that

⁷⁴Ib., 4.

⁷⁵Ib., 8.

armed companies had been formed some time before; unless he prevaricated wilfully, this version is purely Northern. He speaks of threatened Missouri invasions, but gives no intimation of the various movements of the several divisions of the free-State army. Then he says, "The Southern States were being appealed to far and wide,"⁷⁷ and the reader is left to infer that the North was quietly looking on in spellbound horror. An *impartial*, most certainly "the best informed" and "best disposed," witness would at least have intimated the gathering of Sharp's rifles, cannon, and Northern munitions of war.

In the paragraph before the second excerpt given by Professor Hart, page 24 of the London edition, our "perhaps the most impartial contemporary" vouches this information: "In the meantime the Free-State delegates met at Topeka, organized the State Legislature, and made application to the federal power for the admission of Kansas into the Union with a free constitution, and petitioned the President, although vainly, for protection from wrong. Their steadfast adherence to these peaceful measures, and their remarkable moderation in the midst of much that might have excited a spirit of resistance, was doubtless due to the peaceable policy ever counseled by their Commander-in-Chief and Governor, Charles Robinson, whose wise caution preserved the Free-State party from doing a single act which might serve their adversaries as a reasonable excuse for an appeal to arms." The glaring suppression of facts—and since we are told that he was "well informed" it must have been a suppression—brought out even alone in the official reports of the army officers on duty in Kansas in 1856, evidenced by these materially misleading assertions, needs no further comment.

From the connection as given by Professor Hart on p. 118, where he has the witness says, "Among the scenes of violence I witnessed," etc., one would think Gladstone an eye-witness to the "sack of Lawrence." But such was by no means the case. He did not enter Kansas until the day after (p. 37), and for some days thereafter was in Leavenworth (p. 55). Not until page 59 does this next to last excerpt begin, and it has no reference to Lawrence; and certainly few Northern partisans will admit that

⁷⁷P. 115 of Hart's.

any true phase of Kansas history indicates that the free-State men were "intimidated and over-awed." Next to the last paragraph Professor Hart cut his witness off rather soon for a just estimate of his true worth and value as historical evidence. Where the professor has those four omission periods, we read: "The policy of the Free-State party, prior to the 21st of May [1856] was one of determined non-resistance, the people being counseled to give no ground of offence or pretext for violence, and to seek a restoration of justice and order through legal redress alone." No statement could be further from the truth; resistance, armed resistance, Northern-supported resistance, unqualified repudiation, final conflict with Federal authorities, marked every move of the free-State party at least for more than a year before the 21st of May here mentioned. Read a little more even from Professor Hart's quotations: "guerrilla parties thought themselves justified in recovering stolen horses and other property" and "other acts of retaliation occurred"; "violence ensued." That the free-State "army" *stole, burnt, murdered, and pillaged*, and that *they* drove proslavery settlers "out of house and home" by armed mobs,—that they began and waged aggressive barbaric war,—and that their acts *preceded* rather than ensued—that these truths may appear, that it may be seen how warped and how wanting in fullness were the evidences upon which anti-Southern feelings were formed; that it may be seen how the fanaticism of the North and the prejudices of a non-Southern world fed upon false information; that it may be seen that some endorsements of ante-bellum historical sources need to be taken with caution,—I have given this review by no means exhausting the defects in Mr. Gladstone's premises and conclusions. If more were needed, I might point to two or more instances without exhausting the list. Describing Missourians whom he says he saw returning from the "sack of Lawrence," he says, "... their faces unwashed and unshaven, still reeking with the smoke and dust of Lawrence, wearing the most savage looks, and giving utterance to the most horrible imprecations and blasphemies; armed, moreover, to the teeth with rifles and revolvers, cutlasses, and bowie-knives . . . groups of bellowing, bloodthirsty demons."⁷⁷⁷ Of such, "moreover," he declares were most of the

⁷⁷⁷Ib., 39.

Southerners he found in the bordering parts of Missouri."⁷⁷ Worst of all, he told the English people that this large Southern element was practically hopeless! Listen: "Having once been taught that robbery and outrage, if committed in the services of the South, were to be regarded as deeds of loyalty and obedience, these ministers of a self-styled 'law and order' were slow to unlearn a doctrine so acceptable."⁷⁸ Any man who would pen so black a slander on citizens of Missouri or any other part of the South, concerning them at any time in their history, most certainly deserves any other fate than being placed among reputable Kansas "war" contemporaries.

Most prominent among the bitter works which served to show, or give occasion for the manifestation of, the extent and character of the Northern frenzy, was the one which came from the pen of Hinton Helper, a degenerate son of North Carolina. His book was circulated by hundreds of thousands. In it he proposed a plan to be enforced against the South requiring the immediate emancipation of the slaves, and that each emancipated negro should be given sixty dollars by his former master. The white people of the South were to be proscribed from both society and church; they were not to be allowed to carry on commerce; and no Southern white man was to be given employment. If resistance to the execution of this plan was made, DEATH was to be the penalty. I shall give a few quotations from this book; and while these are being read, remember that it is not the mere expression of the one man,—Northern leaders sanctioned and endorsed the proposed plan. It was endorsed by the Republican party, whose sworn leader, Mr. Lincoln, they as anti-slavery men had chosen to take the reins of government. The Speaker of the House of Representatives "and sixty-four of the leading Republicans in the House and Senate showed what measures their party was determined to enforce against the South" by endorsing and helping to circulate Hinton Helper's Manifesto. As the work of one man, it would have soon gone down to deepest oblivion; as a witness through its champions who thus made it their own expressions, it will ever live as a potent deponent to justify the

⁷⁷Ib., 106.

⁷⁸Ib., 88.

belief entertained by the South that the subversion of the government threatened her with dire and irreparable evils.

Helper says in his preface that he does not consider his subject from its "religious aspect"; a statement with which all must certainly agree, for the book savors of treachery and plutonic inhumanity from beginning to end,—notwithstanding his profession of love for the South. He points out many things which, however, were unquestionably needed by the Southern people; but the proposed cure was infinitely worse than the disease. On page 328 of "The Impending Crisis in the South and How to Meet It," he says, "Compensation to the slaveholders for the negroes now in their possession! The idea is preposterous. The suggestion is criminal. The demand is unjust, wicked, monstrous, damnable. Shall we lick the bloodhounds of slavery for the sake of doing them a favor? Shall we fee the curs of slavery in order to make them rich at our expense? Shall we pay the whelps of slavery for the privilege of converting them into decent, honest, upright men? No, never." On page 363: "Freesoilers and abolitionists are the only true friends of the South." On page 31: "Down with the oligarchy. Ineligibility of slaveholders—never another vote to the trafficker in human flesh!" On page 381: "Poverty, ignorance, and superstition are the three leading characteristics of the non-slaveholding whites of the South. . . . All are more or less impressed in a belief in witches, ghosts, and supernatural signs. Few are exempt from habits of sensuality and intemperance." On page 406: ". . . newspapers and books seem generally ignored, and noisy discussions of village and state politics, the tobacco and cotton crops, filibusterism in Cuba, Nicaragua, or Sonora, the price of negroes generally, and especially of 'fine-looking wenches,' the beauties of lynch law, the delights of horse-racing, the excitement of street fights with bowie-knives and revolvers . . . constitute the warp and woof of conversation. All this is on a level with the general intelligence of the Slave States." Thus it is seen that he puts the general intelligence of the South at a point none removed from the condition of those who are generally and erroneously¹⁰⁰ called the "poor

¹⁰⁰Walter H. Page, *The Rebuilding of Old Commonwealths* (1902), 122.

whites,"—a condition, as he pictures it, scarcely removed from those which prevail in barbarous communities.

By way of parenthesis, it is interesting to contrast with this contention of Helper's what intelligent Northerners and foreigners have said on the same point. Miss Harriet Martineau, for instance, spent some years in the United States, part of which she spent in the South studying the people, their manners, education, and institutions. She says, "If we reckon by numbers, there were certainly more well-bred people at the North than at the South [because the population of the North exceeded that of the South]; but when we compare the cream of society in both sections, the palm must be awarded to the slave-holding community. The testimony of English gentlemen and ladies, few of whom have any sympathy with slavery, is almost unanimous in this respect." She spoke of the Southern people who lived at the same period as those of whom Helper professed to speak. Turning to Northern writers, Dr. John Todd, who has not read and admired his helpful book? says, "We justly admire the easy, graceful politeness of our Southern brethren."⁷⁸¹ Of the first settlers, both North and South, Fiske has testified "That the settlers of Virginia and New England were opposed to each other in politics, but they belonged to one and the same stratum of society, and in their personal characteristics they were of the same excellent quality."⁷⁸²

I shall give one more quotation from Helper's book, which shows that, having proposed that the slave-holding whites should never again be allowed to vote, hold office, or carry on commerce, in case of resistance his plan was that the non-slave-holding whites were to help the "slaves 'cut their masters' throats.' Gathering his plan from page 149 we find that he proposes" . . . a speedy and perfect abolition of the whole institution is the true policy for the South—and this is the policy which we propose to pursue." He says that if this cannot be done otherwise "the first battle between freedom and slavery will be fought at home." In summing up the strength for this conflict, he concludes: "So it seems that the total number of actual slave-owners, including their entire crew of cringing lickspittles, against whom we have to contend,

⁷⁸¹Students' Manual, 235.

⁷⁸²Old Virginia and Her Neighbors, Vol. II., 28.

is but three hundred and forty-seven thousand five hundred and twenty-five. Against this army for the defence of the propagation, we think it will be an easy matter—independent of the negroes, who, in nine cases out of ten, would be delighted with an opportunity to cut their masters' throats, and without accepting a single recruit from the Free States, England, France, or Germany—to muster one at least three times as large, for its utter extinction. . . . We are determined to abolish slavery at all hazards." Not only in this extract, but throughout the book his proposition is plain: slaveholders shall free their slaves immediately, pay them a handsome sum, be disfranchised, and take the most humble position in life, or their army of defence was to meet "its utter extinction." This meant a practical enslavement of the intelligent whites; which would have been accepted by the Southern people, such a condition, or utter extinction? "And yet, the leaders of the North, Messrs. Seward, Chase, Greeley, Colfax, and their co-adjutors, endorsed Helper's book." When in the halls of Congress Southern Congressmen openly charged the Republicans with helping to circulate Helper's book, they dodged the issue.⁷⁸⁸ It was the encouragement which such high endorsements gave these threatened insurrections, which made the danger of slave uprisings • great and pressing.

Turning once more to the writers of the North, we find on July 12, 1858, writing to a friend Rev. Theo. Parker said, "I should like of all things to see an insurrection of the slaves. It must be tried many times before it succeeds, *as at last it must.*"⁷⁸⁹ Yet this is the man of whom Emerson—Ralph Waldo Emerson, essayist, minister, and Northern leader,—known to every school boy and girl all over our Southland—said, "By the incessant power of his statement he made and held a party. . . . His commanding merit as a reformer is this, that he insisted beyond all men in pulpits—I cannot think of one rival—that the essence of Christianity is its practical morals."⁷⁹⁰ The South, then, was confronted—not by John Brown and his Harper's Ferry party alone—but by men "who could make a party"; and by those men who taught that

⁷⁸⁸Cong. Globe, 36 Cong., 1 sess., Jan. 11, 1860, pp. 81-7.

⁷⁸⁹Frothingham, Life of Parker, 475.

⁷⁹⁰Ib., 551.

party that a slave insurrection was a moral event to be devoutly desired. Daily these contaminating and brutal influences were growing.

IV. From the character of the men who assisted in the immediate attack on Harper's Ferry, we find that the poisoning influence of the insurrectionists was reaching an educated, fairly intelligent, and thus doubly dangerous white element. Brown's attack showed the South that when the insurrectionists talked of the death of the white slave-owner, they meant exactly what was said—his physical murder. The murders and thefts which resulted from the attack told all too plainly how desperate had become the error-ridden Northern abolitionists.

With the details of Brown's immediate attack, I need not enter for the purpose of this discussion,—unless it be the briefest outline.⁷⁰⁶ His party left the Kennedy farm, where the final plans had been concluded, about 8 o'clock, October 16, 1859. Brown had returned from Philadelphia but two nights before. John Henri Kagi, some time representative of the *New York Post*, "Adjutant-General" and "second in command," was to take and hold Hall's Rifle Works. In the language of one of Brown's confederates, "down the still road, dim white in the moonlight, amid the chill October night," John Henri Kagi, of the *New York Post*, late of the Kansas insurrection, and Aaron D. Stevens, also a Kansas insurrectionist, and who was known in Kansas as "Colonel Whipple," and for whom criminal warrants had been issued in Kansas,⁷⁰⁷ led the vanguard of what was meant to be the greatest slave insurrection of the world. John Edwin Cooke and Chas. P. Tidd cut the telegraph wires. Cooke left his home in the North some years before, and, with some money, went to Kansas and took part in the rebellion. Tidd had joined Brown at Topeka, Kansas, and had assisted in arranging for the Harper's Ferry attack. Jeremiah G. Anderson, who was an active member of the notorious Montgomery band which we saw operating in Southern Kansas, and who was with Montgomery when he fought the United States soldiers while in the discharge of their duty in Kansas, and a man by the name of Thompson, a product of the underground railroad

⁷⁰⁶See Col. R. E. Lee's Official Report, Exec. Docs., 36 Cong., Vol. II., 19 *et seq.*

⁷⁰⁷*Kans. Hist. Cols.*, Vol. I., 244.

movement, took possession of the prisoners taken. Albert Hazlett, who was also with the Montgomery band when it fought the soldiers and fired Fort Scott in Kansas, and Edwin Copple (or Coppock) took possession of the United States armory, which contained near 200,000 stands of arms, which they hoped soon to have men to use. Thus the product of the Kansas rebellion, which itself had been the product of the agitation by leading white men in the North, led the charge upon the little village of Harper's Ferry. Within a short time five innocent persons had been murdered; and had the movement had one-half the time for development that the Nat Turner insurrection had, or any of the other numerous slave uprisings, the Southern people would have been wiped from the map. The attacking party took the valuable silverware of Col. L. W. Washington, and took whatever else seemed to indicate usefulness in war. In an interview published in the *New York Herald*, October 21, 1859, Brown admitted these thefts and said, "We intended freely to appropriate the property of slaveholders to carry out our object."⁷⁸⁸ A northbound train escaped the investing party, and this spread the news of the attack. This timely information enabled the Virginia authorities and regular troops to arrive in time to strike down in its infancy what must have grown to a giant had the assistance which had been promised had time to arrive.

V. Leaders and published literature mould the popular will, and a widespread popular sentiment, however full of error, nerves the daring and urges to action that numerous class, found in all communities, possessed of an inordinate and perverted thirst for fame and notoriety. Deeds of rashness, unchecked in their infancy, lead to greater iniquity. The deification of the varietal plutonic chieftain augments the already widening ripples of mental abrasion. Popular movements in the wrong direction, unless checked by the steadier of hand and cooler of perception and judgment, stop only after innocent victims, too often, glut the savage greed. By the time Lincoln had been declared elected the insurrection-abolition element of the North had behind it a popular approval,—generated by the turmoil and misinformation of the preceding years,—the product of illogical deductions, which made possible repetitions of

⁷⁸⁸Hart, *Welding of a Nation*, 150.

Harper's Ferry in increasing numbers and rapidly growing sweep of devastation. Why did the South at the time feel that this was true? It was proven by the widespread popular ratification of Brown's attack. If the North had repudiated Brown and his awful attempt, the South might have forgiven them. This they not only did not do, but they left no doubt of their sympathetic and unqualified approval. In various unmistakable ways the world was assured that had Brown succeeded, no matter if the destruction of the entire white population of the South had been the result, he would have been hailed as a hero and mounted upon a pedestal of honor and entwined with the garlands of honorable victory. When the news of the failure of his plan went abroad at the North, flags were half-masted, and the stars and stripes were put at mourning out of respect for a murderer. Numerous houses were draped in mourning; prayer-meetings in manifestation of sympathy on account of the failure of his scheme were held far and near. It was creditably reported that on the day of his execution the Legislature of Massachusetts came within two votes of adjourning as a token of sympathy and respect.⁷⁸⁰ Large gatherings all over the North listened with respect and approval to speeches of defamation against the South. The words of Wendell Phillips, when bemoaning the fate to which failure had brought Brown, will be representative of such speeches. Taking Virginia as the object of his tirade, because it had fallen to her lot to execute a righteous judgment, he said: "Virginia is another Algiers. The barbarous hoard who gag each other, imprison women for teaching children to read, prohibit the Bible, sell men on the auction block, abolish marriage, and condemn half of their women to prostitution, and devote themselves to the breeding of human beings for sale, is only a larger and blacker Algiers." James Redpath and Frank B. Sanborn, both of Massachusetts, and Thaddeus Hyatt, of New York, refused to appear before the Senate committee which was making some effort to look into the connection which others had with Brown. The committee succeeded in finding Sanborn, and had him arrested for the purpose of requiring his attendance before them. But a Massachusetts judge released him on a writ of *habeas corpus*. In the report of the committee they say that "Redpath, by leaving his State, and other-

⁷⁸⁰Burgess, *The Civil War and the Const.*, Vol. I., 42.

wise concealing himself, successfully evaded the process of the Senate." John Brown, Jr., was wanted before the committee, but he, assisted by a number of Ohioans, resorted to armed resistance and thus made his escape. In fleeing to save themselves or friends from the clutches of the law, evidence of no inconsiderable weight added, if possible, only deeper conviction of the correctness of the verdict which the South was about to pronounce.

The North says Brown was a monomaniac. Was Hinton? He was as guilty as Brown; he had premeditated slave insurrection for years; he has seemed to be clothed in his right mind for these many years since those fearful days. Was Kagi? He was an accredited correspondent of the *Post*, an accredited Northern paper, for which he was "a vigorous writer," says Noble L. Prentiss.⁷⁰⁰ Was Aaron D. Stevens? As "Colonel Whipple" he manœvered the seditious troops in Kansas to the satisfaction of an abetting North. Was John Edwin Cooke? At one time he was a promising young lawyer. Hazlett and Anderson were said to be among the most brilliant and cunning of the famously notorious Montgomery insurrectionists. Were they insane? To leave the immediate actors: Was Theodore Parker, D. D.? He had devoutly, he tells us himself, wished for a *series* of slave insurrections. Was Thomas Wentworth Higginson, or Chas. Sumner, or Henry Thoreau, or Governor John A. Andrew, or Senator Howe, or Ralph Waldo Emerson? They knew of Brown's plans; they kept his secret; some, most likely all, of them aided him. Were they monomaniacs? Emerson said: "It would be near the truth to say that all the people, in proportion to their sensibility and self-respect, sympathize with John Brown." On the day of Brown's execution a vast audience of sympathizers gathered in Tremont Temple, Boston. Hon. J. Q. A. Griffin, addressing this body, said: "The heinous offence of Pontius Pilate, in crucifying our Saviour, whitened into virtue when compared to that of Governor Wise in his conduct toward John Brown." What was this conduct? The Governor had given Brown the fairest of trials—Brown himself admitted this⁷⁰¹—and had him defended by the ablest of counsel; he gave more than reasonable time for appeal or action of the Legislature, which was then the pardoning power

⁷⁰⁰Kans. Miscellanies, 97.

⁷⁰¹Hart's Source Book Am. Hist., 295.

in Virginia in treason charges; finally, Governor Wise allowed him to be hanged pursuant to law and verdict. Was Griffin a monomaniac? His audience received this declaration with approval: had a great and powerful body in the North become dangerous fanatics and monomaniacs? If insane, so much the greater reason for Southern alarm and for the desire that the maddening agitation be stopped; if sane, only sane people commit or abet, or are accessories to, murder.

XV.

FROM HARPER'S FERRY TO THE END.

THE LINCOLN REPUBLICANS IN CONGRESS ABET THE TREASON IN
KANSAS.

VI. The Subversionists at the Helm.

Most of Brown's immediate followers forfeited their lives at Harper's Ferry, while he himself passed into the presence of the Supreme Judge of the Universe through an ignominious death. But the end was not yet. Emboldened because in Lincoln's election every assurance had been given that the Federal Government would not interfere with their crusade, the abolition-incendiary-insurrectionists gave undoubted evidence of a continuance of all phases of their fight against the South. The few months intervening between Harper's Ferry and the withdrawal of the South from what they maintained was but a nominal allegiance to a government which would not restrain infractions of the Constitution, nor enforce the will of the majority in the whole Union, were months of unabated prosecution from the North, and of unbroken suspense to the South. Some idea of the abolition movements may be gathered from the following from the New York *Tribune*, January 9, 1860:—

"INCENDIARIES — WORSE AND WORSE.—Another freight of incendiary matter was dispatched throughout the slave states yesterday by the New York *Herald*. It was composed of a summary, filling a page of that inflammatory journal, of all the slave insurrections that have ever taken place, with all their exciting and frightful details. It is an exposition going to show the slaves and disaffected poor whites in the South just what has been done, and what can be done again in the way of a bloody uprising to throw off the galling yoke of slavery. This exposition is accompanied by commentaries to show how great is the apprehension and dread felt by the South of these fearful social convulsions, and

what horrors they inflict and leave in their train. The whole thing appears to be got up with the malevolent design of producing a repetition of the horrible scenes there depicted for the purpose of thereby gaining some political advantage over the Republicans in some present or future contest in the North. This diabolical purpose peers through the whole of the exposition as it has done in the general drift of that newspaper for weeks. It discloses a depth of treachery to Southern society, for the mere chance of a contingent or remote political advantage in the North, which it would be difficult to parallel. We venture to say that the reckless malignity of the effort cannot be equaled out of the columns of the same journal."⁷⁰⁸

Hence, it was the continuation of the external influences which were brought to bear upon the negro that produced the most danger. Fear of unaided or unincited slave uprisings had no very strong or widespread hold upon the Southern mind. It was the growing numbers of what charity induces us to call the lunatic white abolitionists—men who could deliberately hack to pieces their fellow-men; men who could waylay soldiers of the United States and strew the prairies with their corpses; men who could steal upon United States forts in the blackness of night and commit arson to the imminent danger of shrieking women and weeping children; men who would rush over the North like flaming meteors arousing sympathy and gathering men and money in support of rebellion, treason, arson, murder,—and do this in abetment of armed marauding bodies which made travel alone upon the public highway suicidal, and that had driven women and children to wander alone and defenceless upon the open prairies, or to seek protection from savage Indians, as vouched for by a Northern Congressional committee."⁷⁰⁹—from a repetition of these barbarous brutalities the South asked to be protected. Of course, the younger reader not familiar with the history of that crucial period, naturally asks for the connection between Lincoln's party and such depredations. As a political party, it is but fair to inquire, what connection had the Lincoln party with the gathering of the munitions of war, with the rebellion against both Territorial and Fed-

⁷⁰⁸Pike's First Blows of the Civil War, 464.

⁷⁰⁹Reports of Committee, 36 Cong., 1 sess., Vol. II., No. 255, p. 6.

eral authority,—with the murder of Federal soldiers upon the plains of Kansas? A very important connection. In the words of Congressman John B. Clark, used by him in a minority report to the House of Representatives in 1860, Lincoln's party "voted for and passed through this House a bill relieving by its provisions all felons, horse-thieves, burglars, murderers, and even the *Ossawatimie assassins*, from all responsibility for their crimes which they had perpetrated in violation of all the laws of that [Kansas] Territory during a series of years. . . . This bill not only pardons every offence and crime known to the criminal calendar, which had been committed in any part of that widespread Territory, but it took the further unprecedented and most extraordinary step of giving to every person in Kansas entire immunity from every crime which they might *thereafter* commit against the laws of that unfortunate Territory."

This is a grave charge, but hear the language of the law itself. It provides "that criminal prosecutions now pending in any of the courts of the Territory of Kansas imputing to any person or persons the crime of treason against the United States and all criminal prosecutions, by information or indictment, against any person or persons for any alleged violation or disregard whatever of what are usually known as the laws of the legislature of Kansas, shall be forthwith dismissed by the courts where such prosecutions may be pending, and every person who may be restrained of his liberty shall be released therefrom without delay. Nor shall there hereafter be instituted any criminal prosecution in any of the courts of the United States, or of the said Territory, against any person or persons for any such charge of treason in said Territory prior to the passage of this act, or any violation or disregard of said legislative enactments at any time."⁷⁹⁴

Thus the abolition-Republicans, who had control of one branch of the nation's governmental machinery, became the champions and protectors of those charged with treason, for in May previous the Grand Jury of Douglas county had found indictments against Charles Robinson, ex-Governor A. H. Reeder, and others, charging them with high treason. A few days after this action by the jury, Reeder, in disguise, escaped into Illinois.

⁷⁹⁴Ib., 51-2.

The bill is unquestionably the most remarkable to be found upon the records of Congress. Representative Dunn had a pending motion "to amend certain acts of the legislative assembly of the Territory of Kansas, and to secure to the citizens of the said Territory their rights and privileges," as he stated it. For this he substituted an amendment in the nature of a substitute for the original bill.⁷⁹⁵ This substitute-bill (1) re-created the Territorial government of Kansas; (2) it kept up the discrimination against free negroes and mulattoes by making "every white male inhabitant" only, being a citizen of the United States over twenty-one years of age, an elector.⁷⁹⁶ (3) It repealed the Kansas-Nebraska bill so far as that bill announced its non-intervention with slavery in the States and Territories, and so far as that bill left the "people thereof perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States," and instead thereof revived the Missouri Compromise as contained in the eighth section of the act of March 6, 1820, and made it of full force in Kansas and Nebraska.⁷⁹⁷ (4) It relieved *all* Kansas criminals of *all* crimes whatsoever, either against the United States or Kansas Territory.

This bill—this violation of the Constitution of the United States—a Stygian blot upon a nation's legislative records,—was sanctioned and passed July 29, 1856, by the Republican-abolition party, that party which, within four years as the Lincoln-Republican party, had captured the Presidency and other machinery of the Union. The vote stood 88 to 74.⁷⁹⁸

The bill was reported to the Senate Aug. 11, 1856, whereupon Douglas moved to table—a quick and easy method of killing a bill or indefinitely delaying it. On this motion the vote was: Aye, 35; nay, 12, and so it was killed in the Senate. Those who refused to vote for tabling signified their endorsement of the bill either as it came to them or after some immaterial modifications. The Senators who thus went upon this ugly record were Bell, of New Hampshire; Collamer, of Vermont; Fessenden, of Maine; Fish, of New York; Foot, of Vermont; Foster, of Connecticut; Hale and Sew-

⁷⁹⁵In full in House Journal, July 29, 1856, pp. 1309 to 1320.

⁷⁹⁶Sec. 5, p. 1311.

⁷⁹⁷Sec. 24, pp. 1319-20.

⁷⁹⁸Ib., 1322.

ard, of New York; Trumbull, of Illinois; Wade, of Ohio; Wilson, of Massachusetts, and Harlan, of Iowa.⁷⁹⁹

Restless to prevent an investigation of the guilt or innocence of the leaders of the rebellion in Kansas, only one week before this time Senator Wilson asked the Senate to pass a resolution which, while less sweeping in scope of benefit, was not less revolutionary or destructive of Constitutional safeguards. This influential Massachusetts representative, who stood in the front ranks of his party until after the war, asked the Senate to pass this resolution:

"Resolved, That the Committee on the Judiciary be instructed to report forthwith a resolution authorizing the President of the United States to direct the district attorney of the Territory of Kansas to enter a *nolle prosequi* on each of the indictments against Chas. Robinson, G. W. Smith, J. Jenkins, John Brown, Jr., H. H. Williams, G. W. Brown, and G. W. Deitzler for treason against the United States."⁸⁰⁰

With the increased power which the victory of the next four years gave the then dominant party, the last vestige of security was snatched from the South; revolution, ghastly, pale, his bony fingers scattering the fragments of a constitution to the blasts of an already bursting storm, stood across the pathway of our republic. In the Senate, in the House of Representatives, among Northern State officials, negro insurrection had been taught, endorsed, and through such influences and the support of popular opinion at last attempted. Northern guns had carried Northern resolutions in Kansas; President Lincoln had avowed that he could not give a better enforcement of indispensable Federal laws; in Virginia, John Brown had plunged his Northern-made pikes into the hearts of whomsoever questioned his right of carnage,—in ratifying his acts the North had given greater evidence than ever of a continuance of the destroyers of the peace and happiness of the South. What was the South to do? The legislative record of the party then passing to power assured the lawless faction, large and dangerous, of immunity from punishment from whatsoever crimes they might commit. For less cause the colonies severed their connection with England; their success brought applause. For less cause manufacturing New

⁷⁹⁹Sen. Journal, 1 and 2 sess., 34 Cong., 554.

⁸⁰⁰Ib., 515.

England refused to stand by the Union in the War of 1812. In our own day the battleship *Maine* went down by an unfriendly hand,—her name became the shibboleth which passed the American armies into Cuba. As a last resort, what did the South propose as a remedy? Let Robert Toombs, whom Prof. Hart, of Harvard University, describes as “an old-time Whig who sincerely loved the Union, and as an able lawyer understood the advantages of it,”⁸⁰¹ answer for us. In a speech of plain but prophetic words in the United States Senate in 1861, just before the final separation, he said: “Your party says that you will not take the decision of the Supreme Court. You said so at Chicago [in the platform upon which Lincoln was elected]; you said so in committee; every man of you in both houses says so. What are you going to do? You say we *shall submit to your construction*. . . . It is admitted—you seek to outlaw four billion dollars of property of our people in the territories of the United States. Is not that a cause of war? . .

“You will not regard confederate obligations; you will not regard constitutional obligations; you will not regard your oaths. What, then, am I to do? Am I a freeman? We have appealed, time and time again, for these constitutional rights. You have refused them. We appeal again. Restore us these rights as we have had them, as your court adjudges them to be, just as all our people have said they are; redress these flagrant wrongs, seen of all men, and it will restore fraternity, and peace, and unity, to all of us. Refuse them, and what then? We shall then ask you, ‘Let us depart in peace.’ Refuse that and you present us war.”⁸⁰²

The South sought to retire within her own castle. When the North refused her that only honorable course, and crossed her threshold to despoil her hearthstone, then Southern valor struck back; brave, loving, loyal, unconquerable women laid their sturdy warriors to rest here and there thick over Virginia’s hills, in her quiet valleys; or, further south, beneath the pines of Tennessee and Mississippi, or under the magnolias of Georgia, or elsewhere amid Dixie’s trembling palms, until Southern strength was no more. To the sleeping—of both sides—may the evergreen spring of acacia speak of hope in a glorious and undisturbed immortality and the

⁸⁰¹Hart, *Am. Cont. Hist.*, Vol. IV., 169, big. note.

⁸⁰²Cong. Globe, 36 Cong., 2 sess.; Hart, *Am. Cont. Hist.*, Vol. IV., 171.

olive branch of peace proclaim, "RESCANT IN PACEM;" but to the living the harvest was left: in the North, undiminished resources, unchecked industries, unbroken commerce;⁸⁰⁸ in the South, for many long years a harvest of empty sleeves, and, worse, empty hearts and vacant chairs, demolished homes, annihilated industries,—on every hand bleak, bloody, barren. Desolation sat upon the grave of a once happy land and looked heavenward with the mute inquiry, "How long shall the wicked flourish as a green bay tree?" To us *now*, a harvest of precious memories, a soil consecrated with the bravest blood; a resuscitated land; a race problem which cost 350,000 precious lives, millions of money, millions of broken hearts,—a problem no nearer solved than in the days of slavery.

The Southern soldier went back to what had once been home, NOT through Northern charity or condescending magnanimity. Even yet in the wake of the war such claims as the following remain to bar the door to forgiveness:

"Most of the officers of high rank in the Confederate army were graduates of the Military Academy at West Point. . . . Some of them, notably General Lee, rushed into the rebel service without waiting for the United States War Department to accept their resignation. But all such ugly facts were suppressed or forgotten in the extreme anxiety of the victors lest they should not be sufficiently magnanimous toward the vanquished."

Or this: "No such exhibition of mercy has been seen before or since."

Magnanimity and mercy, indeed! Such extravagant declarations would be amusing but for their frequency. The treatment of the people of the seceded States was neither magnanimous nor merciful; it was DUE them to be treated like citizens of any part of the Union. What one is entitled to receive is not a matter of gracious condescension on the part of him who renders the due—it is the receiver's RIGHT. The Southern secessionists were neither criminals nor ambitious revolutionists; only such can be the recipients of mercy. The South chose secession not as an end within itself, but merely as the last available means for the preservation of most sacred rights. This legitimate choice involved many not of the law-

⁸⁰⁸Grant, Personal Mem.

less Northern minority, which minority frequently lost themselves far from battlefields and merciless bullets, who had had no part in making the choice necessary. A nation staggered in mortal combat until out of the death-mould and the damp of the red field sprang a new life involving new conditions. Both sides paid as the fathers and mothers only of most of us can realize; yet the South felt that any other course would have cost both her political and personal honor. That the results of the conflict were what we find them by no means decides the right or the wrong of the one party or the other; the correctness and justness of the principles involved remain subject to the unprejudiced verdict of history. We honor our fathers for their choice, and fondly cherish the record of their unparalleled valor; we revere our mothers for their Spartan devotion, and turn lovingly to their un murmuring sacrifices which those of less grander qualities of heart or less strength of will would not have made. Had the bravest and brightest of us lived then, we could not have done more wisely or more honorably. Yet the South to-day stands second to no section in her devotion to the American Union. Across the hills of the not distant future even now begins to break the gray light of that day which Father Ryan saw with such sublime faith:

The story of the glory
Of the men who wore the gray,
In their graves, so still;
The story of the living,
Unforgiven yet forgiving,
The victims still of hate,
Who have forever clung,
With a love that will not die,
To the memories of our Past,
Who are patient and who wait
True and faithful to the last,—
For the Easter morning sky,
When Wrong's rock shall roll away
From the sepulchre of Right,
And the Right shall rise again
In the brightness of a light,
That shall never fade away,
Triumphantly and glorious
To teach once more to men,
The Conquered are victorious.

The Conquered in the strife,
Thro' their children yet shall reign
By their patience and their peace:
They shall fill the People's life,
From Right's ever virgin vein,
With the purest blood that flows,
Made the purer by our woes,
Without stain and without cease,
Till the children of our foes
Shall be proud and glad to claim
And to write upon one scroll
Every dear and deathless name
On our Southern muster-roll.

NOTES.

THE SPECIAL KANSAS-CONGRESSIONAL REPORT.

In the text, some of the page references will not correspond to all copies of the special report. Most of the pages were originally taken from the copy in the Kansas City Public Library—to whose efficient librarian, Mrs. Whitney, and splendid staff I am indebted for numerous courtesies. That copy has a table of contents, and from it I took the rotation of witnesses whose evidence is abstracted. Afterwards I saw copies in Washington, in New York, and in the Georgia State Library. Neither of these had a table of contents or an index as to the contents of either report or evidence. There were some minor changes as to arrangement at least in one copy. Some of the pages refer to it, and so will not correspond with the others. I did not have an opportunity to compare all the printed proof with either copy, and it may be there are a few page-misprints. However, a very little search will locate any quotation; and to the greater number the reader will turn without any difficulty.

ELECTION OF MARCH 30.

(These observations are applicable equally to the first election.)

Since no analysis of the numerous depositions concerning this election is here possible, in addition to the argument given, a statement of some fundamental rules will help us to see the error of relying upon the conclusions propounded by the majority report.

The comparison, by the majority, based upon the census taken some time prior to the election, argues nothing—more especially when the discrepancy was explained by positive evidence of the temporary absence of many residents at the taking of the census. Were that not explained, the majority method can be of no legal or historical value. A similar and even more reliable method of finding illegal votes was used in the contested election case of *Biddle et als. vs. Wing*, in the Michigan Territorial election for Congressional representative in 1826. In that case the tax books

were used. Said the committee of the House, "The discrepancy which is shown to exist between the poll-lists for the county of Wayne and the lists of persons assessed for county and territorial taxes, establishes little or nothing in the case." Then, pointing out that many more had voted at a given point than even *resided* in that district or precinct, they said such fact did not argue that the excess was illegal, since citizens who lived outside of an election district might legally vote at some other point. (*Contested Elections H. R. U. S.*, Vol. I., p. 511.)

The extravagant claims in the majority report can be reached only by violating fundamental and long and well recognized principles for governing *all* properly conducted investigations. The matters under their investigation come under no class which can possibly be exceptions; no sane mind can possibly conceive of even a Congressional committee proceeding without something by which to be guided. The evidence they have left us is exempt from no scrutiny which the law and rational inquiry would not apply to any search for the truth. The conclusions of the historian, unless he can bring new light to bear, unless he can adduce facts not before the investigating tribunal, is just as much bound by the proper mode of procedure, and must abide by the conclusions to which it brings him, as though he were serving upon the original investigation.

In 1840 a contest went up to Congress from New Jersey. The committee but re-stated a time-honored rule in these words: "Mere hearsay declarations of the alleged voter, as to the fact of his having voted, have been uniformly rejected." (*Contested Elections*, Vol. II., p. 24.)

In a Pennsylvania case which came to Congress about the same time, the committee said, "The rule upon which the committee reject all hearsay evidence they conceive too well settled and too clear and just to require any argument. If all experience has shown that if in the administration of justice in the most petty and trifling matters between man and man there is no security for truth without the sanction of an oath, every one must admit that in a controversy which enlists the strongest passions of our nature, often stimulated by ambition and party prejudice and animosity, we cannot safely dispense with this great security. If evidence of this

character were received it might be manufactured with impunity and to any amount, and no representative could be secure in his seat for a single day." (*Ib.*, 34.)

In 1858 another committee laid down even more plainly the well recognized rules, and said that the only exceptions were those given in Greenleaf's *Evidence*—under none of which exceptions come the matters before the Kansas investigating committee. (*Ib.*, 264.)

An application of these rules destroys much, and in some cases *all* upon which the majority version depends, of their so-called evidence. For instance: The Lecompton legislature consisted of twenty-six members of the House. The majority of the committee insisted on the illegal election of fourteen of these; they admit the legal election of *twelve* (*in how many histories do we find this fact?*). The seventh representative district, composed of four voting places, or precincts: Bull Creek, Pottawatomie Creek, Big Sugar, and Little Sugar, was entitled to four representatives. These are put down as *illegally* elected. For this they rely upon the statements of six witnesses. The greater part of what these six men say is about thus: "I did not see"—"I *think*"—"they told me or said"—"I *reckon*."

Look at Westfall's hypothetical and hearsay declarations: "I *think* there were three hundred" from Missouri—"I *think* nine-tenths of those who voted were residents of Missouri."—"I *think* he has never taken his family to the Ter."—"I *think* I saw five hundred in the two camps."—"A great many *told* me they voted." (*Evidence*, p. 225.)

Take the next, Wilson: "I *think* there was but one white family" before me—"I *should suppose* that there were not less than 200 men there non-residents"—"they *told* me they were from Mo."—"They *said* they were coming to vote"—"Our settlers were from Mo., Ill.," &c., "I *think*"—"Those I talked with *said* it was their intention"—"They *said* they had voted, though I did not see them vote"—"I *do not suppose* I saw more than twelve or fifteen men I knew to be settlers" [witness did not reach voting place until ten o'clock, how many *residents* had voted and had gone?]"—"As near as I can *judge* from conversation"—"In *my judgment*" free-State candidate had legal majority—"I *think* they all voted." (*Evidence*, p. 227.)

Take Gearhart: Saw a great many strangers from Missouri, "but I did not see them vote"— "I *should reckon* there were 200 persons I did know"— "I *think* there could not have been more than fifty voters in the precinct."—"I do not *think* there were ten from our neighborhood there [witness arrived at "10 or 11" and "staid at the polls only two or three hours"]—"I *heard* before I started that Missourians were there"— "I *did not see* any of the Missourians vote, though *they said* they voted"— "I do *not know exactly*, but I *think* Dr. Westfall lived in Mo."—"I do not *think* [Younger] has any claim in the Ter."—"I *never heard* that his family lived in the Ter." (*Evidence*, p. 228.)

This was *their* evidence of non-resident voters in the Bull Creek precinct. Apply the legal rules—those unquestioned guides which were followed before and which have been adhered to since the committee in the Michigan case in 1826 said, "Indeed, nothing short of the impossibility of ascertaining for whom the majority of votes have been given ought to vacate an election"; apply the rule used in the Pennsylvania case, where the committee said that if just such evidence as the above were to prevail "no representative could be secure in his seat for a single day"; go to Kansas herself and apply the measure of validity announced in *Gilliland v. Schuyler* (9 Kans. Rep., 569), where "it was held that statements of third parties as to the number of times and the names under which they voted was hearsay and incompetent"—and we cannot escape the conclusion that the Southern party had a legal majority. The returning board reported sixteen free-State votes for one Northern candidate and nine each for the other three; and nowhere can we find any evidence to show that any Southern candidate received a less legal, fair number; in other words, a legal majority is shown for the Southern candidates, and that is the test. (See also McCrary's *Amer. Law of Elections*, p. 240.)

This must suffice to illustrate the points at issue. The usual way of adding all *estimated* illegal votes, determined throughout the Territory by various incompetent witnesses, and then asserting, for instance, "6,218 votes were polled, mostly illegal ones by Missourians," *therefore* the majority of the Lecompton legislature were illegally elected,—is a *fraus pia* in historical method which will, likely, never cease to burden our literature until the "blind

bigotry of the doctrinaire which infects so many worthy persons" shall have passed into deserved oblivion.

SLAVE LAWS OF THE LECOMPTON LEGISLATURE.

Perhaps no other code on earth ever met a stronger torrent of abuse than did the slave provisions enacted by the Southern legislature elected March 30, 1855. The provisions which met this fate at the hands of the North are those of the thirteen sections of the chapter on page 715 of *The Laws* of 1855. Briefly they are:

1. Actually raising slave rebellion;
2. Aiding in raising slave rebellion;
3. Printing or circulating books to excite revolt, insurrection, or conspiracy among slaves;
4. Stealing or decoying away slaves;
5. Aiding in same;
6. Bringing into Kansas a stolen slave: punishment on conviction of either of these was death or, in some cases, confinement in penitentiary;
7. Harboring or inducing slaves to escape;
8. Concealing slaves escaped from other States;
9. Rescuing from officer escaped slaves: penalty, penitentiary;
10. Refusing to assist in capturing escaping slaves: fine, \$100 to \$500;
11. Printing in the State matter "calculated to produce a disorderly, dangerous or rebellious disaffection among the slaves;"
12. "If any free persons, by speaking or writing, assert or maintain that persons have no right to hold slaves in this territory:" penitentiary;
13. Persons conscientiously opposed to slavery, or who did not "admit the right to hold slaves in this territory," were incompetent for jury service.

Taken in connection with the then existing abolition conditions; viewed in the light of the dangers actually menacing their lives by reasons of the abolition methods, and it readily is seen that these laws are merely protective and designed to be preventative; they imposed no restriction which actual conditions did not make necessary for the protection of life and for domestic peace even more than for the protection of property. They vindicated the dignity of the laws—since there were even those who taught that the Constitution of the Union had no binding power; they did not restrain a proper discussion of the policy of abolition as a question which admitted the existing pro-slavery laws to be no less binding than any laws.

The provisions of this legislature which affected the negro him-

self were liberal. Reaffirming the rules laid down by Congress in 1793 and in 1850 for returning to other jurisdictions fugitive slaves, the legislature provided against the abuse of the law or the kidnapping of free negroes: "No person shall take or remove any such fugitive, or do any act toward such removal, unless" he shall first have complied with the strict requirements of the law, under heavy penalty.

This much-abused legislature did not stop at this. It went further, and in chapter 74 formulated a most remarkable law. It gave slaves, either resident or escaping from other States, privileges not even found in the national laws. This was "An Act to enable persons held in slavery to sue for their freedom." It provided: "Any person held in slavery may petition the district court, or judge thereof in vacation, for leave to sue, as a poor person, in order to establish his right to freedom." The court was required to see that such party had "reasonable liberty to attend his counsel and the court, and that he be not subject to any severity on account of his application for freedom." Added to this was a liberal provision enabling the negro to appeal to the Supreme Court. (*Laws of 1855*, pp. 881-2-3.)

Also, in happy contrast to the bitter anti-negro position of the free-State party, the Lecompton government opened its protecting arms to the free negro already in the Territory in no small comparative numbers—the census of Jan. and Feb., 1855, reported 151 free negroes and 192 slaves; nor were free negroes from other jurisdictions forbidden the pursuit of happiness and safety under this government provided by Southern men for Kansas.

NORTHERN "LIBERTY LAWS."

Perhaps nothing else in Northern history illustrates more forcibly the growth of the deep, bitter, uncompromising determination on the part of that section to nullify and override the Constitution and all laws of Congress which did not meet Northern approval, so much as do what writers usually denominate as "Personal Liberty Laws." The various "liberty laws" passed by ten Northern States are such pronounced nullification that the resolutions passed several years before by a mere convention—having no such dignity as a legislative body—of South Carolina become

insignificant on comparison. These Northern laws involve every single element of the doctrine of State secession. Not only are they nullification in design and secessionist in effect, but they represent a minority clamor, which refused to submit upon any terms, and hence are rebellious; while the secession of the South had the high justification of resting its demands, compliance with which would have prevented the move, upon the will of the majority of the entire people of the Union. The reason why the South's demands were not met was because the nullifying Northern faction had succeeded in muzzling the functions of the Government which was entrusted with the preservation of the Constitutional guarantees. Thus Northern nullification went unchecked and all of its co-ordinate agencies were left to pour their hail of ruin upon Southern rights.

The purpose of this note is to let some of the "liberty laws" speak in their own language. Follow the changes in Connecticut.

In 1838 that State recognized the Congressional and Constitutional validity of the fugitive slave laws by providing for the return of "any person, legally held to service or labor in any State or territory of the United States, [who] shall escape into this State." Should a jury be called to try the alleged fugitive, then this Connecticut law said "that no person shall be qualified to sit as juror in said case who believes that there is not constitutionally, or legally, a slave in the United States." (This provision is strikingly similar to a jury provision passed by the Lecompton legislature.) But in 1844 Connecticut passed a law forbidding a "judge, justice of the peace, or other officer, appointed under the authority of this State," *as such*, "to serve any warrant or process for the arrest" of any person "claimed to be a fugitive from service or labor as a slave, under the laws of any other State or country;" all State officers were forbidden to issue certificates for the detention or removal of such fugitive, and such certificate was declared "utterly void;" "provided, that nothing herein contained shall be construed to impair any rights which, by the Constitution of the United States, may pertain to any person, to whom, by the laws of any other State, labor or service may be due, from any fugitive escaping into this State, or to prevent the exercise in this State of any powers which may have been conferred by Congress on any

judge, or other officer, of the United States, in relation to such rights. (Incorporated also in *Statutes of 1854*, p. 798.)

This last not only withdrew the support of the State, but it crippled and virtually annulled the Federal law then in force, because of the fact that the Federal law had consigned much of its enforcement to State officers, relying upon the good faith of the various States to carry it out in their respective jurisdictions. Such laws as this helped to produce the necessity for the re-enactment and amendment of the Federal law as contained in the fugitive slave law of 1850. Therefore, it was the bad faith of Northern States which produced the law of 1850; and not, as is sometimes claimed, the law of 1850 which caused the "liberty laws." The law of 1850 merely put the North to looking round for more pronounced methods of nullification. This new method Connecticut devised in 1854 in "An Act for the Defence of Liberty in this State."

This last legislation was a shrewd piece of nullification. It provided a heavy penalty for falsely and maliciously representing a person to be a fugitive slave. When a party was so changed, "the truth of any declaration, representation or pretence, that any person being or having been in this State is or was a slave, owes or did owe service or labor to any other person or persons, shall not be deemed proved, except by the testimony of at least two credible witnesses testifying to facts directly tending to establish the truth of such declaration, pretence, or representation, or by legal evidence equivalent thereto." What the "equivalent" evidence was is hard to imagine, because: "Sec. 4. Upon the trial of any prosecution arising under this act, no deposition shall be admitted as evidence of the truth of any statement in such deposition contained." (Conn. *Statutes of 1855*, p. 799.)

The law was backed by a penalty of five thousand dollars and imprisonment for five years. No exceptions are made in case of actions before even Federal officers, or those proceeding under the laws of the United States. This not only withdrew State support, but it made it an offence to proceed as per the provisions of the United States laws. The Federal law declared that on trial of a fugitive slave "satisfactory proof being made by deposition or affidavit in writing" duly taken, or by "other satisfactory testimony duly taken and certified" by the proper officer in the State from

which the slave fled, certificate of removal should be given. But to make such proof by deposition, under the Connecticut law constituted an offence incurring an enormous fine and a term in the penitentiary.

It will be impossible here to give more than one more representative instance. It is from the legislature of Vermont, at the October Term, 1858:

"Resolved, That all laws of Congress which recognize the right of property in man, or deprive any person of liberty without due process of law and a jury trial, or provide that any person shall be delivered up, as owing service to another, without trial, are unconstitutional, void, and of no effect.

"Resolved, That property in slaves exists only by the positive law of force in the States creating it. The moment it passes from under the operation of those laws, it is property no longer.

"Resolved further, by the Senate and House of Representatives, That the doctrine maintained by a majority of the judges of the Supreme Court in the case of Dred Scott . . . has no warrant in the Constitution, or in the legislative or judicial history of the country.

"Resolved, That these extra-judicial opinions of the Supreme Court are a dangerous usurpation of power, and have no binding authority upon Vermont, or the people of the United States."

With these fearful pronouncements she coupled the most unmistakable secession doctrine:

"Resolved, That whenever the government or judiciary of the United States refuses or neglects to protect the citizens of each State in their lives or liberty, when in another State or Territory, it becomes the duty of the sovereign and independent States of this Union to protect their own citizens at whatever cost." (*Resolves of the General Assembly of Vt.*, Oct., 1858, pp. 67 and 68.)

Even so! The Southern States each for herself exercised this eternal, inherent, inalienable right of an independent sovereign because Vermont and numerous other Northern States denied the sacredness of the only possible common arbiter; denied the binding power of the Constitution and laws of the nation's legislature; because Lincoln and the Republicans of his administration permitted the Government thus to be insulted; because no hope of a

substantial character was offered that the mad allies of these nullifying and rebellious State governments would not continue to invade the South with servile insurrection, and overrun the common Territories with cannon and bayonet, borne by an emigration incubated by hoarded and often ill-gotten Northern wealth. These were the *causes* of the Civil War. The existence of President McKinley did not cause his assassination; the existence of slavery, or its use by the South, did *not cause* the Civil War. Had that good man never have existed he would never have been assassinated; but shall we excuse the foul deed because it found something upon which to vent its fury? Neither with justness can we hold slavery responsible for the awful civil and physical conditions which the North used it to produce.

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